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CONTENTS

COMPLETE REPORT OF THE PROCEEDINGS OF THE SPECIAL SESSION ON LEGAL EDUCATION OF THE CONFERENCE OF BAR ASSOCIATION DELEGATES AT WASHINGTON, D.C., FEBRUARY 23-24, 1922

Issued Quarterly by the
MASSACHUSETTS BAR ASSOCIATION, 60 State St., Boston, Mass.

INTRODUCTORY STATEMENT.

The February number of the "Massachusetts Law Quarterly" contains a preliminary report on the conference in Washington showing the vote of the Executive Committee of the Massachusetts Bar Association in connection with the appointment of delegates to the conference and containing a brief account of what took place there and some discussion of the problem as to educational requirements for admission to the bar.

It was stated that as soon as possible a fuller account of the conference and of the discussion would be printed in this magazine. Subsequently, the editor was informed that the entire proceedings had been printed and that a limited number of copies were being sent out to the delegates themselves and to secretaries of various bar associations, and that reprints for wider distribution might be obtained while the type was still standing. In view of the importance of the conference and of the ultimate practical results in the profession which are likely to come from it, it seemed advisable to secure reprints of what was said there for the information of those members of the Massachusetts bar who are interested in following professional developments and in order to have these proceedings in available form for convenient reference in future.

Those who do not find time to read the whole discussion will find a partial table of contents at the beginning and those who wish to see how it was presented from different angles may be interested in reading as follows:

Opening address by Mr. Root, p. 13; address by Chief Justice Taft, p. 25; (both in favor of the proposals before the meeting). Remarks of Mr. Keeble of Tennessee, pp. 66, 69 and 82 (in opposition); remarks of Dr. William H. Welch of Johns Hopkins, p. 84; (giving the angle of the medical profession). Remarks of Senator Thomas of Colorado, p. 148 (in opposition), and closing answer to him by Mr. Root, p. 171.

The greatest practical result of the meeting will undoubtedly be through the influence of the advice to men intending to study law that in the opinion of representative members of the bar from all over the country they should prepare themselves by at least two years of college study before going to a law school, and should choose those law schools which require at least that amount of preparation before beginning the law school course. This persuasive method of stirring the ambition as well as of appealing to the intelligence of students before they begin their preparation does not, of course, affect requirements for admission to the bar in any state. It simply has to do with the requirements which a man makes of himself, but gradually this plan will have a great influence. Indeed, that influence has already begun to show itself by the raising of the requirements in various law schools.

Senator Pepper in his speech (on page 191) said:

"This Conference seems to me to be *epoch-making*, because we, as representative American lawyers, have for the first time definitely recognized the public responsibility of the profession and we are taking measures to discharge it."

As to requirements to be made or allowed by statute or rule in different states, the practical situation to-day is reflected in the remarks of Mr. Keeble of Tennessee. As far as Massachusetts is concerned, as was stated in the February number, we need not disturb ourselves over the question whether the standard suggested by the Conference of Delegates is or is not too high, for we are so far below it to-day that the question is a purely academic one for us. The practical question in Massachusetts is not whether we shall require two years in a college, but whether we shall require something more than two years in an "evening high school or a school of equal grade," whatever that means. Any step, therefore, however slight, which raises that standard, will help the Commonwealth and its reputation before the country.

A SUGGESTION FOR BAR EXAMINATIONS IN MASSACHUSETTS.

The remarks of Mr. Wormser, of New York (pp. 70-74), as to the importance of the study of the English language, and of English and American constitutional history leads to a suggestion, which has been the subject of casual conversation among Massachusetts lawyers, that these subjects are really an essential part of a legal education, as distinguished from a general education, and that they should be specified as the basis of a part of the legal examination for admission to the bar. There seems to be nothing in the present Massachusetts statute to prevent a higher requirement in the knowledge of these subjects as part of the *strictly legal equipment*.

The present statutes, G. L. c. 221, secs. 35-39, provide for a Board of Bar Examiners and in § 36 that:

> "Said board may, *subject to the approval of the supreme judicial court,* make rules with reference to examinations for admission to the bar and the qualifications of applicants therefor, and determine the time and place of such examinations, and conduct the same; *provided,* that any applicant for admission to the bar who is a graduate of a college or who has complied with the entrance requirements of a college, or who has fulfilled for two years the requirements of a day or evening high school or of a school of equal grade, shall not be required to take any examination as to his general education."

Sec. 37 provides that a citizen of the United States may petition

> "to be examined for admission as an attorney at law, and, if found qualified, to be admitted as such, whereupon, *unless the court otherwise orders,* the petition shall be referred to the board of bar examiners to ascertain his acquirements and qualifications. *If the board reports that the petitioner is of good moral character and of sufficient acquirements and qualifications,* and recommends his admission, he shall be admitted *unless the court otherwise determines* . . ."

There is nothing in these statutes which defines "general education" in such a way as to classify such subjects as are here suggested under the heading of "general" education as distinguished from what may be called the special field of "legal" education.

On p. 7 of the pamphlet containing the rules of the Board of Bar Examiners approved by the Supreme Judicial Court on May 25, 1921 appears the following statement as to the interpretation of the statutes by the board:

> "A majority of said board construes section 36 above set forth as meaning that all applicants who are graduates of a college, or who have complied with the entrance requirements of a college, or who have fulfilled for two years the requirements of a day or evening high school or of a school of equal grade, or who have had an education equivalent thereto, shall, so far as their general education is concerned, be deemed qualified to be admitted to the bar, and shall be considered eligible to take the regular law examinations."

There appears to be nothing in this statement to indicate that the Board of Bar Examiners, *after a closer analysis*, would classify such subjects under the head of "general" as distinguished from "legal" education. In any event the statement of opinion of a majority of the board is not binding upon the court upon which the ultimate responsibility for admission and, therefore, of testing, and if necessary of defining the qualifications, seems to rest.

Aside from any question as to the power of the legislature to dictate to the court in this matter of standards for admission to the bar, the legislature has by the statutes quoted specifically expressed its expectation that the court shall take the responsibility of determining what are "sufficient acquirements and qualifications". The rules of the board require the approval of the Supreme Judicial Court. Even as a matter of statutory interpretation it is the function of that court to draw the line in a fair and reasonable manner as to the subjects which fall within the term "general education" as used in Sec. 36 as to which a limitation is provided and the "sufficient acquirements and qualifications" as to which the court is to determine

under Sec. 37. Any reasonable interpretation of the language of the two sections will involve a certain amount of overlapping, but the use of the English language in general and in the draftsmanship of legal documents, as well as the subject of constitutional and legal history seem to fall clearly within the reasonable and necessary "acquirements and qualifications" for membership in the bar as distinguished from "general education".

There is no reason to suppose that the legislature or any one else would seriously oppose such a course. It must be clear enough to laymen, as well as lawyers, that men cannot understand with any thoroughness the principles of the constitutional law or of the common law and equity in this country without a working knowledge of the history of the country and of England out of which our constitutions and system of law developed as practical measures from generation to generation in our government. Our law is not merely a set of arbitrary rules. Many important rules or principles of law are directly or indirectly connected with practical developments in our history.

A good working knowledge of these subjects can be readily acquired by a reasonable amount of general reading in easily accessible books by any student whether he attends any institution or not.

Rule IV of the Board of Bar Examiners approved by the court May 25, 1921 now provides that,

> "The law examinations shall be upon the following subjects, or some portion thereof:
>
> | | |
> |---|---|
> | Contracts, | Negotiable Instruments, |
> | Torts, | Bailments, |
> | Real Property, | Carriers, |
> | Criminal Law, | Wills, |
> | Evidence, | Probate Law, |
> | Equity, | Domestic Relations, |
> | Corporations, | Trusts, |
> | Partnership, | Constitutional Law, |
> | Mortgages, | Bankruptcy, |
> | Suretyship, | Legal Ethics, |
> | Agency, | Pleading, |
> | Sales, | Practice. |

"The examination shall be conducted by printed questions, to be answered in writing. The board may give such supplementary oral examination as it deems proper."

It is respectfully suggested that an addition to this rule might be formulated by the Bar Examiners with the approval of the Supreme Judicial Court specifically requiring a knowledge of legal and constitutional history as a basis of part of the legal examination for admission. Such a rule might well specify certain books as suggestions to students such as:

Channing's "History of the United States".

Rhodes' "History of the United States" from the Compromise of 1850.

James Truslow Adams' "The Founding of New England."

Washburn's "Judicial History of Massachusetts" or

Chief Justice Mason's brief account of the same.

The history of the Massachusetts Constitution as told in the Manual of the Constitutional Convention of 1917.

Hampton L. Carson's account of Early English Judicial History in 2 Mass. Law Quart. for May 1917.

Woodruff's Article on the History of Equity Jurisdiction in Massachusetts in 5 Law Quart. Review.

The Report of the Judicature Commission.

Harding's "Struggle for the Constitution in Massachusetts".

Robinson's "Jeffersonian Democracy in New England".

Cushing's "Transition from Colonial to Commonwealth Government in Massachusetts".

Beveridge's "Life of John Marshall".

Chase's "Life of Chief Justice Shaw".

Pound's "The Place of Judge Story in the Making of American Law" 1 Mass. Law Quart., May 1916, 121.

Warren's "History of the American Bar" and "The Supreme Court in United States History".

Burgess' "The Middle Period 1817-1853" and "Reconstruction and the Constitution 1866-1876".

Morison's "Maritime History of Massachusetts".

These books or articles are suggested by way of illustration.

All of them, except Channing, Rhodes, Beveridge, and Warren's three volumes on the Supreme Court, are short. They represent various points of view. They are not school boys books and there is no reason why they should be. Other suggestions would doubtless be made so that a brief list could readily be prepared, the reading of which would increase the knowledge and improve the English of every future lawyer in the state in such a way as to help him to understand his profession better.

The ability to read such books and get a reasonable working knowledge out of them does not require special attendance at any school.* It merely requires the willingness and ambition needed to take the trouble to read in order to be able to think intelligently from different angles and with some judgment about our laws and the reasons for their existence. No legislation or school is needed for the purpose and most men, who have any taste for reading at all, will find the books mentioned readable and that they contain more dramatic interest than a moving picture show, if they are read with a desire to try to understand the human struggles, mistakes, and successes that have made our history and law. The mere suggestion of such books by the court would, in itself, lead many men to read and think about them. Mr. Henry Ford is reported to have distinguished himself recently by characterizing all history (except his own, apparently) as "bunk". But that statement, as Mark Twain remarked in his famous cable about the report of his death, is somewhat "exaggerated". The reading of such books and thinking about the story in them, for it is a story, and a good one, helps to give men a better sense of perspective and to cure some of their cynicism; and what has been called "the cancer of cynicism" is, perhaps, the most serious disease of the American bar to-day.

* The Massachusetts Bar Association has on hand a supply of copies of Chief Justice Mason's account of early Massachusetts Courts and also of the account of the "Constitutional History of the Supreme Judicial Court from the Revolution of 1813," which appeared in the Massachusetts Law Quarterly for May, 1917, and which contains Mr. Carson's story of Early English Judicial Experience, out of which our present judicial system developed, as well as the story of our own early experience. A number of these can be distributed without charge to law schools and public libraries if desired to help students to a fuller knowledge of our legal history. The association also has the plates so that more copies can be printed if needed. Dean Pound's account of Judge Story is also available.

As to testing the ability to express ideas in reasonably grammatical and intelligible English it is, of course, an obviously essential part of testing the purely professional qualifications of any man who wishes to exercise the privilege of arguing to a court and drawing pleadings, briefs, contracts, and other legal documents which affect the rights and interests of clients. It might well be tested partly by requiring the applicant to draw a bill in equity, a declaration, a contract, a deed, and a draft of a statute relating to given subjects. A lawyer is supposed to be able to do all of these things, with the exception, perhaps, of the statute, as soon as he is admitted to the bar and has taken the oath of his office. Accordingly, "Draftsmanship of Legal Documents" might well be added as a specific subject to the list in Rule IV. The ability to use the English language, however, should not be tested merely by the answers upon any one subject. The fairest plan is to use the answers on all subjects as a basis for testing the candidates in this respect. Brief making might also be considered as a specified subject for examination. A tentative draft of a rule and an explanatory note is annexed at the end of this discussion.

The present Rule IV provides that "The board may give such supplementary oral examination as it deems proper". It is a common opinion among members of the bar that no one should be recommended for admission whom the board has not seen and talked with, as no paper examination or written certificate of character can take the place of the "real evidence" of the man or woman who is asking admission. This is the theory on which the actual appearance of the applicant is required before the court at the time of admission; but, of course, as large groups are now admitted together, personal examination by the court is, perhaps, not practicable, although, if it could be arranged occasionally, it would have an invigorating effect all along the line. Since, however, the court has not time for such examination as a regular thing, many now believe that the theory should be revived in practice to the extent of a personal examination by the bar examiners appointed by the court. The admission of an attorney is as important a matter as the decision of any other civil cause and, in its effects, more important than many. The practice of

admitting "officers of the court" more or less by wholesale, like the somewhat similar practice in naturalization sessions of admitting men to "citizenship" by wholesale seems to be producing serious results.

In 1886, George O. Shattuck spoke of the "tendency toward chemical disintegration as the great foe to national progress". This tendency appears to have been making rapid strides in the legal profession in the last 25 years and the question is to what extent the public health can stand the effects of stunted growth and the rotting disease of cynicism and ignorance at the bar. To what extent are the principles of democracy being used as a disguise for the "cult of incompetence"? To what extent is the responsibility in the matter divided between the court and the legislature? In his book on "The Lawyer's Official Oath and Office", the late Josiah H. Benton quoted Chief Justice Paxson of Pennsylvania as follows:

> "No judge is bound to admit nor can be compelled to admit, a person to practice law who is not properly qualified or whose moral character is bad . . . Whether he shall be admitted or whether he shall be disbarred is a judicial and not a legislative question", p. 6.

Courts of other states have applied the same principle. The question has never yet been judicially passed upon by the Supreme Judicial Court of Massachusetts. It seems clear, however, that, aside from any question of conflict of authority, the responsibility must be a professional and ultimately a judicial one and that if the court and the Board of Bar Examiners, in their rules, proceed to classify more accurately those subjects which are naturally an essential part of a reasonable professional training and add such subjects to their law examinations there will be more progress in this matter than if we carry on a distracting controversy, at the present time, as to requirements of a certain number of years of "general education" in some kind of educational institution.

The understanding of reasonable professional manners might also be given attention. It ought not to be necessary, as it was recently, for a judge of the Superior Court to remind a young member of the bar to rise, instead of slouching in his seat, when he addressed the court.

As far as the attitude of the Massachusetts Bar Association on this subject is concerned, as already stated, no action has been taken upon the recommendations of the conference. As explained in the February number, the Executive Committee voted on January 25 that the committee:

> "appreciates and shares the hope of a gradual improvement in the educational standards for admission to the bar reflected in said resolutions. As to the method specified in the resolution of realizing that hope, the Executive Committee takes no action at the present time but authorizes the president to appoint three delegates, of which he shall be one, and in his discretion one or more alternates to represent this association at the conference, such delegates to be appointed as representative members of this association to vote in said conference in accordance with their individual judgment, but without authority to commit this association to any policy or course of action."

Since the Washington conference, the National Association of Evening Law Schools has issued two bulletins, written by Gleason L. Archer, Esq., Dean of the Suffolk Law School and secretary of that association. Bulletin One is entitled, "The Two-Year College Proposal." Bulletin Two is entitled, "Who is Really Behind the Movement for a Two-Year College Requirement?" These bulletins appear to have been widely circulated and copies of them were sent to the present writer as editor of this magazine. The "Foreword" and the "Conclusion" of the two bulletins contain a summary of the position taken, and are here reprinted for general information and consideration in connection with the general subject:

"FOREWORD.

> "The National Association of Evening Schools is on record as opposing any lowering of educational standards for admission to the profession of law. The proposal to require two years of college training of applicants for the bar is, however, in its opinion an unreasonable and dangerous recommendation. It would bar over

ninety percent of our young people from aspiring to the profession and would deprive the legal fraternity of some of the greatest intellects of the rising generation . . ."

"CONCLUSION.

"The genuine advances in law school standards that have come to pass in recent years are advantageous and wholesome. The public and the individual student are alike benefited. If the University Law Schools, or day law schools in general, wish to maintain a partial or complete college requirement for the admission such an effort is praiseworthy from every point of view.

"It is only when they attempt to strike rival evening schools with a weapon that would prevent earnest and worthy men whom circumstances have denied college advantages from aspiring to the profession of law that they merit condemnation and earnest opposition. A conspiracy of Universities can be as arrogant and dangerous to the Nation as that of any other minority that seeks to dominate it, whether educationally, industrially or politically.

"The man who lacks early advantages should be encouraged and even required to spend long years in preparation for the legal profession. If there were evening colleges available, then a partial college requirement would not be unjust. But to require a college training in whole or in part when there are no evening colleges is to require the impossible.

"The foregoing recital has perhaps amply demonstrated that the two year college requirement is selfishly intended as a weapon to annihilate the evening law schools. But there is a greater issue than a factional fight between law schools. The evening schools of law will not survive anyway unless they are serving a public need.

"But the poor boy question is one of the greatest problems of the age. To leave open a door of opportunity through which the boy of ambition and strength of character, burdened though he may be by dependent relatives, may climb to the highest rung of the ladder for which

the Creator has endowed him is an imperative duty of the Nation if it is to live.

"The great geniuses in every field of life spring from the most unexpected sources. Thomas A. Edison, the greatest scientist of the present day, is self educated. Andrew Carnegie, whose philanthropy is on every hand, self educated, rose to the heights, in competition with college men. The same is true of John D. Rockefeller, James J. Hill, Edwin H. Harriman, Charles M. Schwab, Henry Ford and scores of other collossal figures in our National industries.

"A college requirement in the business world, and it might as reasonably be expected as a safeguarding of the public from business failures, would have denied to our Nation these pillars of its industrial greatness.

"The legal profession must not be denied the immense possibilities that may come to it from the accession of strong men who emerge from the multitude of the ninety-seven odd percent to whom college training is an impossibility."

The remaining contents of the two bulletins elaborate the arguments and specify the evidence upon which the arguments are based. The word "conspiracy" is being pretty freely used in these days, both in and out of court, in every direction so that, like other epithets which may be used in either direction in this controversy, its force as an argument is somewhat weakened. We may do better without epithets.

In order to avoid misunderstanding, I should, perhaps, state that I am not a supporter of a requirement by statute or rule in Massachusetts of "two years of study in a college" for all applicants for admission to the bar. I believe that the advice of the Washington conference to men intending to study law that they should attend a law school which requires at least this amount of preliminary preparation is sound, but that is very different from establishing such a requirement in the state for admission to the bar. I believe the present low educational requirements in Massachusetts tend to encourage young men to think that if they meet those low requirements they will have done all that is necessary to equip them for the bar and they

are then left for the rest of their lives with the handicap of an inadequate training, instead of being encouraged by a higher standard in the first place to train themselves to be better lawyers. I do not think that this is fair either to the public or to the men themselves because I believe that the same men might be made stronger, more capable, happier, and more useful to themselves and the community if their ambitions were aroused to train themselves more thoroughly at the beginning. As I stated in the February number, the prominence of lawyers in a democracy like ours is the result of an absolutely impersonal force which cannot be avoided. That force is the training needed to study and understand and apply principles of law.

Now, the opening sentence of the "Foreword" of the bulletin of the National Association of Evening Law Schools states that the association "is on record as opposing any lowering of educational standards for admission to the profession of law." Such a recorded negative position, however, does not hold out to the public any particular promise of improvement in the profession. A negative position as to "lowering", in any association of such institutions does not seem to be enough. If the word "conspiracy" is to be used at all in this matter, it is equally applicable to any association of institutions which "stands pat" on existing conditions. The opening paragraph of Mr. Archer's "Conclusion", however, contains apparently a very different spirit for it shows positive appreciation of the work which the university and day law schools, in general, have done in advancing law school standards.

What Dean Archer in his "Conclusion" calls "the poor boy question", is entitled to all the consideration that it deserves, but it should be looked at fairly and squarely and should not be complicated or bolstered with immaterial arguments. In the body of "Bulletin One", after reference to the struggles of the boy who is helping to support his widowed mother or his brothers and sisters, appear the following paragraphs:

> "Suppose he is a man thirty to forty years of age. Suppose by merited promotions he has won high place in federal, state or municipal service and realizes that legal training would help him higher. Suppose, he has become

an official of a large corporation and needs legal knowledge to increase his usefulness. Suppose he is the executive head of a business of his own and a knowledge of law would be an immense asset.

"Can it be supposed that such a man, and there were hundreds of them studying law in the evening schools, can give up his position or his business, quit earning money, leave his family to shift for itself while he goes to college for a mental training perhaps inferior to what he has already gotten?"

Now, the court does not admit men to the bar as a stepping stone, or certificate of character, for public office, or for increasing the usefulness of a business man. The standards of study for admission must be adapted to vigorous young men at the age when they want to learn in order to practise the profession. Men "thirty or forty years of age" who are, and intend to continue, in politics or business and want to be members of the bar as an incident, or as a stepping stone, cannot expect the standards for admission to be adapted to *their* learning capacity or opportunities. Rule III of the Supreme Judicial Court * does not seem to contemplate that they shall be examined for admission unless they intend to "*practise*". They should not be used, therefore, as arguments in the discussion of standards. There is certainly no democratic principle or "square deal" argument which entitles them to any special consideration whatever. If what they want is legal training, they can study law in any way they please, but they need not apply for admission to the bar, unless they really mean to join the profession in a professional sense, and they should not be allowed to block reasonable standards for young men of the age for genuine professional preparation. It is certainly fair to expect the older men to meet the tests of the rising generation and not to clog the wheels of progress.

As has already been stated, as far as Massachusetts is concerned, the requirement of two years in a college is a purely academic question. The question is, do we not need some improvement in the standards of admission and, if so, what and

* Rule III (established 1905) provides that "no person who does not intend to practise as an attorney in this Commonwealth shall be entitled to be examined for admission."

how shall we get it? I submit as the next step for Massachusetts an amendment to Rule IV as already suggested and an explanatory note containing suggestions as to books to be read by way of preparation. A tentative draft of such a rule and such an explanatory note are annexed hereto.

F. W. Grinnell.

Tentative Draft of a Suggested Amendment to Rule IV as to "Subjects for Law Examination".

The law examination shall include also the general subject of constitutional and legal history, draftsmanship of legal papers and brief-making. The general ability to express ideas clearly in the English language shall also be tested by the examiners on the answers to the examinations in the various subjects or otherwise.

Tentative Draft of Explanatory Note.

In connection with the subject of constitutional and legal history, the reading of the following books is recommended:

(Insert list of Books)

As to testing the ability to express ideas in the English language, this general test to be applied in all subjects is required because the power of clear expression in the English language is an essential part of the law examination for those who wish to be admitted to exercise the privilege of making arguments to the court, of drawing pleadings, briefs, contracts, and other legal documents which affect the rights and interests of clients. The applicant must expect to be called upon to demonstrate his power of expression by drawing a bill in equity, a declaration, a contract, a statute, or other documents and his power of arranging an argument in an outline brief.

SPECIAL SESSION

ON

LEGAL EDUCATION

OF THE

CONFERENCE OF BAR ASSOCIATION DELEGATES

HELD UNDER AUSPICES OF THE

AMERICAN BAR ASSOCIATION

MEMORIAL CONTINENTAL HALL
WASHINGTON, D. C.
FEBRUARY 23 AND 24, 1922

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AMERICAN BAR ASSOCIATION.

SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR.

NEW YORK CITY, October 31, 1921.

To Presidents of State and Local Bar Associations:

Last winter a study of legal education was made by a special committee of the Section of Legal Education and Admissions to the Bar of The American Bar Association. On August 31 the special committee submitted its recommendations to the Section which approved them after very full discussion, and on September 1 these recommendations were adopted by The American Bar Association at its meeting in Cincinnati. I enclose a copy of the committee's report, on the last two pages of which you will find the text of the resolutions as adopted by The American Bar Association.

You will observe that a representative Conference on Legal Education is to be called for the purpose of uniting the bodies represented in an effort to create conditions favorable to the adoption of the principles approved by the Association. This conference will take the form of a special session of the Conference of Bar Association Delegates and will meet at Washington in February.

It is most important that the delegates from state and local associations shall be men of standing and influence, who will be able and willing to give time and thought to the conference and to the constructive work which will follow it. The committee in charge hopes that most of the delegates will be practicing lawyers, although some law school professors will doubtless attend whose counsel will be of great value. The movement which has led to this conference is not initiated by law schools, but springs from a recognition by the members of The American Bar Association of the bar's obligation to protect the public and the profession from incompetent and unethical lawyers.

I am writing to you because of your interest in the subject and in the hope that you may cooperate with the other officers of your association to secure well-qualified delegates from your bar.

Yours very truly,

ELIHU ROOT,

Chairman of Section.

CONFERENCE ON LEGAL EDUCATION

MEMORIAL CONTINENTAL HALL

WASHINGTON, D. C.

FIRST DAY'S PROCEEDINGS.

Thursday, February 23, 1922, 11 A. M.

The meeting was called to order by Clarence N. Goodwin, Chairman of the Conference of Bar Association Delegates.

The Chairman:

Gentlemen of the Conference of Bar Association Delegates: It is a very pleasant thing for me that the first meeting of the Conference of Bar Association Delegates, to be held during my term of office as Chairman of the Conference, takes place here in the Capital of our nation, in this Memorial Continental Hall, lately the seat of a conference of such national and world importance, and to consider a subject of such vital concern to the profession and to the nation itself.

The proposition to be discussed, which will be presented by Mr. Root, is the recommendation of the American Bar Association, adopted at its last annual meeting, that hereafter two years in college and the equivalent to three years in a full-time law school, shall be required as a condition of admission to the Bar.

It is peculiarly fitting, it seems to me, that this proposal of the American Bar Association should now be submitted to this great congress of the bar associations of the country, including, as it does, delegates from the American Bar Association, every state bar association, and some hundred or more local bar associations.

It is a dramatic thing when the representatives of the American, the state and the local bar associations of the country convene in extraordinary session to consider a question which

touches so nearly the future well-being of the profession to which we belong.

Who are to concern themselves about such a question if not the lawyers themselves? Who can hope to speak with the slightest authority for the Bar except the accredited representatives of all the bar associations in the country at large?

The Delegates to the Conference do not come with instructions from their associations as to what they shall say or how they shall vote, but they come as men chosen on account of their eminence at the Bar, with a duty to hear, to give counsel, to confer, and finally, if possible, to arrive at a common decision which will express the thought and feeling of the Conference as a whole.

The history and the origin of the Conference, as well as the work which it has already done, also make it exceptionally fitting that it should take up the question of what ought to be required of those who seek admission to the Bar.

The idea of a Conference of all the bar associations of the country which should meet annually for common counsel, and which should bind them all together for the accomplishment of a common purpose and by this means raise the standards of the profession and bring about a better administration of justice, and the plans under which it was organized, were conceived by the man to whom the world is indebted for so many constructive thoughts and for so many noble and very lofty plans destined to be of the largest importance to the welfare of humanity and the peace of the world, the Honorable Elihu Root, of New York. At his suggestion, and in accordance with his ideas, the Conference was created in the year 1915. He was for several years its Chairman, and his leadership was responsible for establishing it as a potent and national institution.

It is fitting that these proposals with reference to legal education should be submitted to this Conference on account of the work that it has already done in investigating the conditions of the profession and making affirmative, constructive suggestions in regard to the means by which the character, fitness, efficiency and standing of the Bar may be improved and the administration of justice thereby advanced. In 1919, for example, after a discussion at the meeting of the Conference in

Boston relative to what constitutes the practice of the law, and the necessity for protecting the public and the profession from the unlawful activities of lay agencies, a special committee was appointed to present a brief on that subject; and after a very thorough and painstaking investigation, that committee, through its Chairman, William H. H. Piatt, of Kansas City, prepared a report exhaustively reviewing the authorities and submitting a definition of what constitutes the practice of law. This report was presented at the following meeting of the Conference in St. Louis in 1920, and after full discussion, the definition presented was adopted by the Conference. It seems very clear that the work of arriving at an authoritative definition of what constitutes the practice of the law, and making a distinction between those activities which lie exclusively within the field of the lawyer, and those which do not, was an exceedingly important step in the life of the profession.

But there is another part of the work of the Conference which marks it as a body peculiarly fit to take up the consideration of what ought to be the requirements of admission to practice.

At the Boston meeting in 1919, of which Mr. Root was Chairman, there was a vigorous discussion of how the Bar should be organized and governed, and of the proposition that the state bar associations of the country should be incorporated and should be made inclusive of the entire membership of the Bar.

While that meeting of the Conference arrived at no conclusion on the subject, it appointed a committee of five, of which James Byrne, now President of the Association of the Bar of the City of New York; Thomas W. Shelton, of Virginia; Clement Manly, of North Carolina, and W. H. H. Piatt, of Kansas City, were members, and of which I had the honor to be Chairman, for the purpose of investigating the question and reporting its conclusions at the following meeting:

This committee made a survey of the entire field and reported as its conclusion: That the Bar as a whole is composed of intelligent, high-minded, competent lawyers, devoted to their profession, and personally maintaining its high traditions; but that it suffers in reputation from the incompetence, the unfitness and the misconduct of a few, and that it can never attain the place in the public esteem to which it is entitled until it is made

self-governing and master in its own house; that the Bar, composed, as it is, of officers of the court, duly appointed in accordance with law, and in law and in fact officers of the Department of Justice, and therefore public officials, is as much a part of the court as is the Bench; that the Bar, in law and in fact, constitutes a body politic, should be recognized as such, and should be given power to determine the matter of admissions and authority to administer discipline—in short, the power to admit, to discipline, and to purge itself of unworthy members.

It was concluded, however, that as there appeared to be a distinct field for the voluntary and selective state bar association, that organization ought not to be incorporated and made inclusive of the entire Bar, but should be left in existence, while the Bar as a whole was endowed, through proper legislation, with the power and means of self-government.

Therefore, the recommendations now submitted for conference action come to a body which, during the last three years, has made itself familiar with the conditions existing in the profession, recognizes the worth, competency and high character of lawyers generally, but knows the necessity for making this high standard of the greater part uniform throughout the profession, and making it certain that not merely the majority, however large, but all of the profession shall attain to standards of fitness and worth that will make the word "lawyer" a guarantee of high character, learning and professional honor.

It was my privilege to be present at the last session of the Conference on the Limitation of Armament, held in this hall; as I sat here my thoughts went forward to this Conference so soon to be convened, and it occurred to me then that whatever is accomplished for the betterment of humanity and the peace of the world, comes from the conscious or unconscious application of the great fundamental principles of democracy.

Not all that was accomplished at Versailles was good; but all that was accomplished there that was good came from an acceptance of those great doctrines laid down in our Declaration of Independence, of the equal rights of all mankind.

Not everything that was desired was accomplished at the great conference so recently held here in this historic hall, but all the good that was here accomplished was made possible by the influ-

ence of those in every nation who believed in the common kindred and equal rights of men in every station and in every part of the world.

It occurred to me then that this same principle of human equality must be a decisive factor in all our deliberations. We affirm that we believe in equality before the law. But how can equality before the law be possible when the rich and powerful are represented in court by highly educated, thoroughly trained and most competent members of the profession, while a large part of the poor and ignorant who frequently find themselves in court opposed to the more fortunate, are so often represented by ignorant, untrained and incompetent men who have, through the laxity of our methods, been commissioned by the state with authority to counsel and advise and represent them?

The shrewd and powerful men and interests of large means are able to know who are competent and who are not, but how is the poor man, the ignorant man, to make any just estimate of who is capable of properly advising and representing him?

During my years as a trial judge I was frequently distressed by the fact that one side or the other in the case before me was so incompetently represented by counsel or represented by such ignorant counsel that, owing to the learning and skill of the attorneys on the other side, it seemed impossible to get the case properly before the court, or keep error out of the record.

During my years in the Appellate Court, we found ourselves constantly confronted with records which showed such palpable and unmistakable errors as to make it necessary to reverse the case, although it obviously had merit, and although it was almost a moral certainty that had the errors been eliminated the verdict and judgment would have been the same.

These miscarriages of justice, due to ignorance and incompetence of counsel, are largely beyond the power of the judges to control, or of rules of practice to remedy. It is to be remembered, however, that the men representing these unfortunate litigants were licensed by the state to practice law.

It seems little less than a crime for the state to certify to the competency, to the learning and to the ability of a man to represent his fellow citizens in court who is not learned nor

able nor competent to represent or advise anybody in any legal matter.

This question of what requirements for admission to the Bar are to be adopted has never been in our hands, and we are not as a body responsible for the standards that have been established. We do, however, have an influence, and to the extent that we have an influence, we are responsible, and to the extent that we are responsible, we have a moral duty to investigate and act.

We are assured from the investigations that we have already made that the standard and requirements already adopted are insufficient. We are here to discuss the question of how much farther we are to go. But obviously we must discuss and consider it primarily from the point of view of the welfare of the public rather than that of our own interests; although upon investigation it may well be found that the best interests of the public and the best interests of the profession are one and the same.

Secretary Harley then proceeded to call the roll, but upon motion by Martin Conboy, of New York, duly seconded, the calling of the roll was dispensed with.

Julius Henry Cohen, of New York:

Mr. Chairman, we are honored today by having with us a distinguished member of the Montreal Bar, Gordon McDougall. I move that his name be added to the roll and that he be given the privileges of the floor.

The Chairman:

The privileges of the floor we will gladly extend to the representative of the Canadian Bar Association.

And I may say now, for the benefit of the members of the Conference, that there are present delegates from law schools, and those delegates are here through our invitation as guests, without the right to participate in roll calls or to vote on any questions. They have, however, the privileges of the floor, which we are very delighted to extend to the distinguished representative of the Canadian Bar.

The Chairman then read in part the following telegram:

TONOPAH, NEV., February 22, 1922.

William Draper Lewis,
Conference on Legal Education,
Washington, D. C.

If suitable opportunity presents itself, please urge all conferees to make seasonable plans to attend San Francisco sessions of American Bar Association second week next August. This is a Pacific year in our national affairs, and western members are determined to make San Francisco sessions notable chapter in history of American Bar Association. We are overlooking no opportunity to press upon eastern members our earnest and insistent desire for their attendance and cooperation.

HUGH HENRY BROWN.

The Chairman:

Last June while acting as a University delegate to the Centennial of the University of Virginia, I visited Monticello and was impressed with the simple inscription designated by Thomas Jefferson as the thought by which he wished to be remembered. It was significant because he passed over the fact that he had been Minister to France, that he had been our first Secretary of State, that he had been President of the United States for two terms. I could not exactly recall what that inscription was, but I looked at a facsimile of it last evening, and it was:

Author of the Declaration of Independence, of the Statute of Virginia for Religious Freedom, and Father of the University of Virginia.

The American Bar Association has chosen a distinguished gentleman to present to this Conference their program. It is not of deep significance that he has been a Senator from the State of New York, Secretary of State, and held many other high offices. All those offices and all those honors have been enjoyed by men of lesser stature. There are many things for which he will be remembered. I venture to say, however, that among that long list will be the fact that he was the author of the plan for the creation of the Permanent Court of International Justice, and I hope that the results of this and future conferences will be such that he will also be remembered as the Father of the Conference of Bar Association Delegates. I will ask Mr. Guthrie, Mr. Conboy and Mr. Wadhams to escort Mr. Root to the platform.

Elihu Root, of New York:

Mr. Chairman, and gentlemen of the Conference: Old Dr. Lieber, the great teacher of jurisprudence of the last genera-

tion, had posted on the wall of his lecture room the motto, "No right without a duty." It is my pleasant duty to present to you a certain action of the American Bar Association upon which that Association appeals to you for sympathy and assistance. It consists in certain resolutions designed to improve the standard of the incoming Bar, and it is the result of many years of discussion, many committees, many reports, many drafts of resolutions. For 25 years the American Bar Association has acted under a continually growing feeling that the Bar was not functioning quite right, and during all that time local associations and state associations have been appointing committees, receiving reports, and passing resolutions based upon the same feeling.

Some nine years ago the American Bar Association formally asked the Carnegie Foundation for the Advancement of Teaching, which had just accomplished a noteworthy study of the teaching of medicine, the results of which had been very salutary to the medical profession, to make a similar study of legal education. That was undertaken by the machinery of the foundation, and last summer the report of the gentleman who had been engaged in the study was produced. In the meantime the American Bar Association reorganized its branch devoted to legal education into a section on legal education and admissions to the Bar, with an executive council. The Section also appointed a special committee composed of half a dozen gentlemen from all parts of the country to take up the question as to what should be done to create conditions which would improve the efficiency and strengthen the character of those coming to the practice of law. That committee met in the City of New York and it sent out questionnaires all over the country to the people who were supposed to be best fitted to make suggestions, to the heads of all the bar associations, state and local, to all the law schools, and to a great number of leaders of the Bar in different parts of the country. They got great numbers of answers, and those they collated and digested.

Then the committee met again and they invited representatives of all sorts of experiences and opinions on the subject to come before them and instruct them. There was a long session in which the heads of the law schools and bar examiners and members of the Bar in active practice came in and talked to the

committee and answered questions. As a result the committee reported to the Section of Legal Education and Admissions to the Bar of the Bar Association a series of resolutions which they recommended, designed to take one step at least in the direction of having a more effective Bar, not only now but in the future. Those resolutions which were recommended by the committee went before the Section, at a largely attended meeting in Cincinnati last summer, and were fully debated. Representatives of certain law schools who were opposed came in and argued very fully in opposition. But they were adopted by an overwhelming majority by the Section and recommended to the Association, and in a very fully attended meeting of the Association there was another vote, and they were adopted then by an immense majority. I am now bringing them before you by the direction of the Association with a request for your kind consideration and all the help that you can give us.

(1) The American Bar Association is of the opinion that every candidate for admission to the Bar should give evidence of graduation from a law school complying with the following standards:

(a) It shall require as a condition of admission at least two years of study in a college.

(b) It shall require its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

(c) It shall provide an adequate library available for the use of the students.

(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

(2) The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the Bar, and that every candidate should be subjected to an examination by public authority to determine his fitness.

(3) The Council on Legal Education and Admissions to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not and to make such publications available so far as possible to intending law students.

(4) The President of the Association and the Council on Legal Education and Admissions to the Bar are directed to cooperate with the state and local bar associations to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the Bar.

(5) The Council on Legal Education and Admissions to the Bar is directed to call a Conference on Legal Education in the name of the American Bar Association, to which the state and local bar associations shall be invited to send delegates, for the purpose of uniting the bodies

represented in an effort to create conditions favorable to the adoption of the principles above set forth.

ELIHU ROOT, *Chairman*, New York, N. Y.
HUGH H. BROWN, Tonopah, Nev.
JAMES BYRNE, New York, N. Y.
WILLIAM DRAPER LEWIS, Philadelphia, Pa.
GEORGE WHARTON PEPPER, Philadelphia, Pa.
GEORGE E. PRICE, Charleston, W. Va.
FRANK H. SCOTT, Chicago, Ill.

You will perceive that the first part of these resolutions—all of the first two—is an expression of opinion by the American Bar Association. Of course that opinion cannot be changed here, in another meeting, differently constituted. What you can do, and what I hope you will do, is to range yourselves by the side of the American Bar Association to give effect to that opinion.

You will perceive that the second part of the resolutions directs action. It directs two kinds of action. First, the action which will be effective in itself; that is, the Council of the Section of Legal Education is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not, and to make such publications available so far as possible to intending law students. Now, that is going on and will continue to go on, and Mr. Sanborn, the Secretary of the Section, who is here, can give you information about the very gratifying results of the publication of these resolutions, in the way of responses from law schools, a large part of which have already announced their intention to make their qualifications conform to the qualifications that should be established in the opinion of the American Bar Association. So no matter what we do here, there will be put before the people of the country and the thousands of young men who are seeking admission to the Bar during this coming year, a list of the law schools which conform to the opinion of the American Bar Association as to what a law school ought to be, and a list of the schools which do not conform to the opinion of the American Bar Association as to what a law school ought to be, with the natural result that all the young men and young women who are able to do so will go to the first-class law schools and none who can get to the first-class will go to the others, and if they are true Americans, imbued with the traditional American impulse always to have the best, you will find the law schools that are what they ought to be

filling up and the law schools that are not what they ought to be dwindling.

The second line of action directed in these resolutions is what has brought us here. It is a direction of the Association to cooperate with the state and local bar associations, to urge upon the duly constituted authorities of the several states the adoption of the above requirements, and the direction for the calling of this Conference, for the purpose of uniting the state and local bodies in an effort to create conditions in the several states favorable to the adoption of these principles.

You see those are two quite separate and distinct lines of action to give effect to these standards: First, the direct communication to the people of the United States upon the authority of the members of the Bar Association of an opinion as to the kind of law school their young men shall go to, and second, an appeal to you members of the state and local bar associations to use your influence and power in the several states to get the state authorities to take over and put into force that same opinion.

Now, this appeal to you and to your associations is not without a basis in past history. The local bar associations have long been appointing committees, passing resolutions in some way to improve the standing and efficiency of the Bar, and particularly of the incoming Bar. And this is an appeal for that union which will make it possible for all the resolutions and all the good intentions of the state and local associations for 20 years past to become efficient and active.

There will be opposition to some of these provisions, and in order to determine how far the opinion of the American Bar Association is praiseworthy and sound and should be supported, it is important to look a little at the trouble which it seeks to cure. That there is trouble I think every one of us feels. It may not be trouble in this particular county, in this particular Bar, in this or that state; but it is trouble in so large a part of the Bar that it affects the whole Bar. You cannot have too many rotten spots in an apple and have the rest of it good. We have for years been hearing just such things as Judge Goodwin tells us out of his experience on the Bench, about the sacrifice of client's interests, increased expense, the continual delays, the sending back of cases for new trial, notwithstanding their merits,

owing to the inefficiency and incompetency of members of the Bar. Those reports have been coming from all over and they have blackened the name of the Bar. They have led the public to observing the manifold defects of our administration of justice—its delays, its technicalities, its repeated and oft-repeated appeals and reviews, its long delays which prevent the honest man of modest means from getting his rights, while the rich man, with abundant income, and the sharper, with subtle and adroit ingenuities, can put off indefinitely the granting of justice. That is the charge against us, against you and me; and what is worse still, it is a charge against our free institutions that is sapping the faith, the confidence, the loyalty of the millions of people in this land, in those institutions.

Apart from those evidences, there is enough in the general conditions to satisfy any one that either the Bar or somebody else is not quite doing its full duty. Vastly complicated our practice has become. The enormous masses of statutes and decisions have made it so. Twelve thousand to fifteen thousand public decisions of courts of last resort in a year! Twelve thousand to fifteen thousand more statutes from our Congress and legislatures! A wilderness of laws and a wilderness of adjudications that no man can follow, requiring not less, but more ability; not less, but more learning; not less, but more intellectual training in order to advise an honest man as to what his rights are and in order to get his rights for him. Are we doing it? No. The Bar stays still. It has been talking 25 years. The American Bar Association has been talking about it for 25 years, appointing committees, listening to reports and filing them. This is the first attempt, in any authoritative and conclusive way, to do something. I am here to ask you to help in it.

Not only has the practice of law become complicated, but the development of the law has become difficult. New conditions of life surround us; capital and labor, machinery and transportation, social and economic questions of the greatest, most vital interest and importance, the effects of taxation, the social structure, justice to the poor and injustice to the rich—a vast array of difficult and complicated questions that somebody has got to solve, or we here in this country will suffer as the poor creatures

in Russia are suffering because of a violation of economic law, whose decrees are inexorable and cruel. Somebody has got to solve these questions. How are they to be solved? I am sure we all hope they will be solved by the application to the new conditions of the old principles of justice out of which grew our institutions. But to do that you must have somebody who understands those principles, their history, their reason, their spirit, their capacity for extension, and their right application. Who is to have that? Who but the Bar? Is the Bar giving it? Is the Bar getting it? The public's judgment is that it is not.

Conditions have so changed from Abraham Lincoln's day that the problem is different and the opportunity is different. Not only that, but the material is becoming different.

I was for many years a member of the Character Committee in the City of New York, appointed by the Appellate Division of the Supreme Court of that Department, and year after year we used to sit, and all the applicants for admissions to the Bar came before us and presented their papers and submitted themselves to such examination as we saw fit to make regarding their characters. And every year, when it was all through, we were compelled to confess to each other that we really did not know anything about the character of nine-tenths of the young men who came before us. They would get somebody to sign the necessary papers, and they would furnish certain formal statements about their careers. A young fellow just applying for admission to the Bar has not much of a career. It is very difficult to tell much about his character. We could not keep a young man out because we did not know much about him. It would not be fair to deprive him of his chances. Nevertheless, I had, we all had, an uncomfortable and unhappy feeling that we were admitting to the Bar each year some scores and hundreds of young men without any warrant whatever for believing that they had the character that is the most essential thing in the administration of justice.

The old practice of Lincoln's time, under which a young man studied in a law office, got a little coaching, a little steering from the members of the firm, read a few fundamental books and became educated as a lawyer in that way, has passed. Here and there in the country districts it may remain, but by and large

it has gone. That path way is no longer open to the young man who is seeking admittance to the Bar. In its place has come the law school; and in place of that assurance which the old lawyer in whose office a boy had studied could give to the court upon his personal knowledge, has come the Bar examination.

Two things, I think, lie at the bottom of our difficulty here. One is that the old system which has passed away was a system that gave moral qualities to the boy. He took in, through the pores of his skin, the way of thinking and of feeling, the standards of morality, of honor, of equity, of justice, that prevailed in that law office; and the moral qualities are the qualities for the want of which our Bar is going down.

Lincoln did not need any such resolutions as we have here. Lincoln inherited and breathed in and grew into the moral quality that makes a lawyer prominent, that makes a judge great.

The other difficulty is that examination is wholly incapable of testing that moral quality of a man. The young men that I have been talking about, whom we have to see with doubt going through the examination and into the Bar were acute, subtle, adroit, skillful. They had crammed for their examinations. They could trot around any simple-minded American boy from the country three times a day. But the thing that we were troubled about in that Character Committee was: Have they got the moral qualities? And we had no evidence that they had. And the evidences are coming in all the time of a great influx into the Bar of men with intellectual acumen and no moral qualities. How are you going to get them? Not by an examination; not by going back to the law office. That is impossible.

There is another thing to be considered. A very large part of these new accessions, and particularly in the large cities, are of young men who have come in recent years from the Continent of Europe. They have come from countries where there is a highly developed jurisprudence. They have necessarily, by inheritance, all those predilections and fundamental ideas which differentiate the continental systems of jurisprudence from the Anglo-American system. Do not underestimate the importance of that. I am not saying that the systems of the countries from which they come are not just as good as ours. I am drawing no comparison. But they are different from ours. Do not mistake

that. I had many years ago to argue a case in the Supreme Court of the United States, the case of Hilton *vs.* Guyot—you will find it along about 30 years ago in the reports (159 U. S. 113)—involving the effect of a French judgment. After very careful and long continued study I came to this conclusion: That an American stood no chance in a French court and a Frenchman stood no chance in an American court. I have thought of that a thousand times since, when engaged in international affairs, and I have seen it illustrated over and over and over again. The great trouble in international affairs is that the people of two different countries have two different sets of pre-natal ideas in the backs of their heads. Every word that is said and printed and written receives one meaning against the background of one set of ideas, and another meaning against the background of the other set of ideas. If you have a week's conference, you can spend six days in trying to understand each other's back-of-the-head ideas. And if you can get a little glimmer of an idea of what the other fellow is really thinking about, then you can settle your difficulty in five minutes.

These young men to whom I have referred come here, and they are coming to our Bar by the hundreds, with continental ideas born in them. No cramming for an examination will get them out. They are not to be learned or dis-learned out of a book. Those ideas can be modified or adapted to our ideas only by contact with life—contact with American life—taking in, in the processes of life, some conception of what the American thought and feeling and underlying basis of honestly and justice is.

Now, how can you get it? The idea of this resolution, that the law school should require as one of its conditions for entrance two years in an American college, is an effort, and the only one that has been suggested, to require that these young men shall go and spend an appreciable time under such conditions that they will take in the morale of our country before they are admitted to the Bar.

I believe in the fundamental conceptions of justice and honor and good faith, out of which our American institutions grew. They were the conceptions that were brought out by struggle and sacrifice during the long centuries of the Anglo-Saxon fight for freedom. They received a new birth, a new commission upon the

American continent—an enlarged conception of individual liberty and manhood, of individual right, of justice, of duty to the state, of the common good, entertained by men who had no superiors, who looked up to no government above them, but *were* the government, through their own organization. That was the complex of conceptions that gave the formative power that has made this continent, that has carried the common law of England from ocean to ocean; that has made the individual enterprise of America, carried on by sovereign citizens, dealing with justice and rendering justice, a mightier force than the dictates of any empire or any sovereign.

I said a few moment ago that I do not criticize any continental view of jurisprudence. But I do take leave to say that we want *our* view here in this country to continue.

I do not want anybody to come to the Bar which I honor and revere, chartered by our government to aid in the administration of justice, who has not any conception of the moral qualities that underlie our free American institutions—and they are coming, today, by the hundreds.

I know of no way that has been suggested to assure to any considerable degree the achievement of such a view on the part of aspirants to the Bar except this suggestion that they should be required to go to an American college for two years and mingle with the young American boys and girls in those colleges, be a part of their life, and learn something of the community spirit of our land, at its best; learn something of the spirit of young America in its aspiration and its ambition, seeking to fit itself for greater things. That is what they will get in an American college.

Somebody sent me the other day a card that had been circulated from some night school suggesting that this was a snobbish proposal. He who sent it knew little of the American college. We are told that this will keep poor young men out. Keep them out! Do you suppose such a thing would have kept Lincoln out? I have been, within the last year, to three American universities, each one of which had over 11,000 students. I never saw a more inspiring spectacle than I did in going into the great reading room in the University of California and seeing there from a thousand to two thousand young men and women all at work,

reading. Oh, my heart grew lighter in its view of the future in the faith of that spectacle!

I know American colleges, and I have seen for 60 years the plain boys trudging over the hills to get an education in order that they might climb the heights of fame and fortune, in order that they might slake the thirst for learning, in order that they might make themselves something bigger and better; and I say to you there is no better democracy in this world than the democracy of the American college. And that is the great thing that is learned there; for in it the youth pass the most formative years of their lives before the spectacle of men who are happy in the pursuit of learning and of literature and of science—happy in their growth and achievements—without money, without display, without ostentation. There are today over 600,000 young Americans in these institutions. And can you tell me that a boy who is worth his salt, who is fit ever to have a client, who has the character that will enable him to assert and maintain rights, cannot find his way to one of those institutions and spend two years there? If he cannot, he does not belong in the Bar.

One other thing: Whence come these 600,000? Observe, that means every year that more young Americans are going into these institutions than there are in the whole Bar of the United States. They could duplicate the Bar of the United States every year, if all the youngsters that came out went into the Bar. Whence come they? They come from the people of every calling, all over our land, of every condition, from parents who are working hard to educate their children, and from conditions of life where the child has to serve itself. They are coming in response to the universal feeling of the American people that they must make progress. That is where these 600,000 come from. They come from a people who mean to do better, to be better, to be stronger, to do great and greater things.

Is the Bar alone to be free from that noble feeling? The Bar, which deems itself the guardian of the most sacred rights of humanity? Is the Bar to sit silent, passing futile resolutions expressing pious hopes, and unwilling that its ranks shall be elevated by marching side by side with all the rest of the great and aspiring American people?

There is no trouble about a young man getting a college education in this country today—not the least. There is money enough wasted by incompetent, slovenly, ignorant practice, keeping honest men out of their rights, filling up the time of the courts, frustrating efforts at more prompt disposal of cases, and the granting of justice—there is more money wasted each year than would be necessary to pay for the education in college of all the men that will apply for admission to the American Bar for the next 25 years.

One concluding thing: What is all this for? What is the vital consideration underlying all the efforts of the American Bar? We are commissioned by the state to render a service. What we have been talking about is the way of ascertaining or of producing competency to render that service. Upon what standard of judgment shall we consider and attempt to do that? Of our rights? Of the rights of the young men who come here crowding to the gates of our Bar? Is it a privilege to be passed around, a benefit to be conferred? Is there any doubt that that standard is inadmissible? Do we not all reject it?

The standard of public service is the standard of the Bar, if the Bar is to live; the maintenance of justice, the rendering of justice to rich and poor alike; prompt, inexpensive, efficient justice.

Shall we turn our backs on an effort to secure better public service, and go away and congratulate ourselves on the preservation of the privilege of charging fees for services, without regard to the great duty, the great obligation, the great responsibility, that our privilege carries with it?

The Bar of America has been fumbling for years, through the American Bar Association and state associations and local associations and in private conference and in public address, to find some way to render the public service that we all know we are bound to render, and that we all feel we are not rendering satisfactorily; and this is the one concrete and practical step proposed for the accomplishment of that purpose.

I hope that we shall have the enthusiastic and effective support of all the Bar associations of the country in the maintenance of that standard.

A recess was taken until 2 o'clock P. M.

AFTERNOON SESSION.

Thursday, February 23, 1922, 2 P. M.

The Chairman:

Gentlemen of the Conference, yesterday afternoon, while we were enjoying Mr. Charles Butler's hospitality, I refreshed my mind with regard to the circumstances under which the inferior courts of the United States were organized and authorized. You will remember that the original proposition was that the federal jurisdiction of the United States should be exercised exclusively by a system of federal courts. Mr. Rutledge secured a reconsideration of that proposition and suggested that the original jurisdiction in federal matters should come before the state courts and that appeal and the right of review to the supreme national tribunal would be sufficient to safeguard national rights. Mr. Madison and Mr. Wilson, however, secured a compromise which gave Congress power to create, if it chose to do so, inferior tribunals, with the result that the judicial power of the United States is in a small part, in the first instance, exercised by federal courts and in the larger part by the state tribunals, so that the judicial system, the national judicial system, comprises both state courts and national courts. We are on record as saying that the court consists as much of the Bar as of the Bench. It seems logically to follow that the Chief Justice of the United States, therefore, is head not merely of the federal courts, but of all the courts, at the head not merely of the Bench, but of the Bar, and recognizing as he does the obligations of that headship and leadership, he has consented today to preside at this meeting of the conference of all the bar associations of the country, the American, the state and the local.

It gives me great pleasure to introduce as your chairman for this session the Chief Justice of the United States.

Chief Justice William Howard Taft:

Gentlemen of the Conference, a good chancellor amplifies his jurisdiction. My experience up to date in my present office is such that I do not need any amplification. However, my association in the cause of legal education was as dean of a law school

for three years; I have been professor for eight years; and this makes me feel that when I am called upon to speak for a cause like this that I should respond and ought not to be criticised for responding. We have critics not only of our opinions, but of our occasional utterances. Therefore we must take care that what we talk about shall be in the line of judicial propriety. I trust that a discussion of the need of legal education is not such an issue that either Congressmen or Senators can complain of my going into it.

The law is a learned profession. It requires close, accurate, constant study to master it and to make a man a good and helpful lawyer. Its field is very wide. It must apply to every phase of our many-sided life and society. As life and society grow more complicated, the law takes on that characteristic.

The source of the law is in statutes and in precedents. The statutes are without number and the precedents are myriad and are contained in thousands, yea tens of thousands of volumes. No man can know all the statutes or all the cases which make precedents in the unwritten law, and in the application of statutes. He can only study generally the principles as they are to be found in the leading cases and familiarize himself with the methods available for finding the detailed precedents especially applicable to the case in hand.

This calls for a good and a trained memory, great intellectual industry and facility, a power of analytical and synthetic reasoning, and very wide, general information of society and the practical affairs of men and government, adapting him to quick acquisition of knowledge, accurate and sufficiently detailed to enable him to advise those who seek his assistance, and to maintain or defend their rights in every walk, profession or business in our kaleidoscopic society.

It goes without saying that the best preparation for the successful study and practice of such a profession is a wide and thorough general education. The best general education is to be had at our colleges and universities. There one studies literature, language, mathematics, science, history, economics and government. There one is subject to daily, monthly, semi-yearly or yearly examinations of what he has studied. He is trained to arrange his mental machinery by special review and rapid

summary of the study of a considerable period to present it to his examiner in a comprehensive, accurate and logically digested form. He will not remember it all permanently but he will carry enough largely to widen his general information, and what is more important, he will by this constant practice in preparing for such a review and examination acquire a facility in the rapid acquisition and analytical digestion of any of the infinite variety of subjects he may have to be famliar with in advising a client or conducting a litigation for his rights. Such facility will often make the difference between his failure and his success. For no learned profession, therefore, is a thorough and general college education more necessary than for that of the law.

I am not saying that a man may not acquire such an education and preparation without having the benefit and opportunity of a collegiate or university course. There are geniuses in application, men of native intellectuality and ability and high ambition who can mount obstacles and fit themselves for anything to which their will would carry them. But they are rare exceptions. We have to deal, in laying down rules for the required preparation for a profession, with the average man who wishes to practice it, in order that society may be served in a most important capacity by competent practitioners. We should not be governed in laying down such rules by the needs or ambitions of those who would become lawyers. The safety of society, and their useful aid to society are the prime considerations. If a man cannot secure the preparation which an average man should have, to be a lawyer, then he should seek some other avenue of livelihood. We have all the lawyers we need now, and there is likely to be no dearth of them, however thorough the preparation insisted upon. The illustrations of the evil that may be done, by admitting to a learned profession of importance to the community one not properly prepared, are perhaps easier to find and elaborate in the case of physicians and surgeons than in that of the lawyers; but the evil though not as plain is just as great in the injury done to individuals and society.

But I am asked, would you shut out worthy young men so poor that they cannot go to college? Would you bar a man like Lincoln from the Bar because he had to fight his way from squalor and poverty to become the great lawyer he was? No, I

would not. Lincoln was a man, and so are all nascent geniuses and leaders like him, who if it had been necessary to go to a college to prepare himself for the Bar would have overcome another obstacle and done so. It was not necessary in his day to have the basis of a college education for admission to the Bar. He educated himself and prepared himself. He would have been better prepared, had he had a college education, but he was a rare mould and his example furnishes no rule which should guide us today. The opportunities for college education are not confined to the great eastern endowed universities, or to the great state universities, now flourishing in every state. The whole country is dotted with collegiate institutions of learning near to the home of every young man anxious to come to the Bar, with facilities for supporting himself through his college course if he has the courage and tenacity and self-restraint to avail himself of them. There are thousands of young men doing this now. Such a man will derive more from his college course than the young man who is supported in college by his parents. He will know what it costs in effort to secure such an education. He will value it his whole life long. He will have in its acquisition a discipline of character that will enable him in the race of life to distance his apparently more fortunate classmates who get remittances from home and regard more highly the diverting pleasures of a college course.

I do not know that I want to be personal, but that comes home to me with such force that I must illustrate it with an anecdote.

My father was the son of a farmer in that part of Vermont where how they live makes a man wonder when he goes to see those hillside farms. And he determined to get a college education, because he was going to be a lawyer. So he got some money by teaching at home. His teaching must have been pretty poor, but he was the head of the class, so he could be sure of questions that he asked. And with the accumulation of a little money he walked down from Vermont to the academy, to get his preparation, and then walked to Yale from Vermont. Then when he went in he worked hard, and he came out successful. And he worked his way through college. Now in his mind the value of education was so firmly embedded that his disgust at the use of the college for pleasure and for athletics was marked in his

whole view of the college life, and therefore when I went to college I had a gentleman at home that had an estimate of the benefit he was conferring on me by sending me there. He did not have much of a curriculum, but he got out of college life more than any man that I knew. And why? Because he got with it the discipline of character and the proper estimate of the value of education. Therefore the men who do accept the opportunities that are open to every young man to go through college and work himself through, while it is hard, they are receiving a training that will stand them in good stead in after life and make them as they become, the leaders, wherever they cast their lot.

But I must not dwell on this phase of preparation requirements for the Bar longer. I would not over-emphasize the side and claims of the applicant for the Bar. The great consideration is the usefulness to society of the Bar—as to that, there can be no doubt, that we shall greatly increase the competency of the Bar to discharge its most important function if we insist on the necessary preliminary essential of a thorough college education. In the new rules adopted by the American Bar Association, we have not made a complete college course necessary before study of the law begins, though I hope we may ultimately do so. We are moving in that direction by requiring two years of collegiate training.

Do not for a moment ascribe to me the conviction that a college education will fit all men who have it to become good lawyers. There are many who go through college who are no better prepared to begin the study of the law than men without a college education. They are men upon whom any higher education is wasted. I am sorry to say it, but if it were smallpox they would not run any risk of getting it. But we must be guided in adopting rules for a whole country by the average results of a requirement and not be driven from it by personal exception which would prevent making any rules at all, and open the profession to even greater abuses than now exist, great as they are.

There is nothing aristocratic or exclusive about our policy. When you come to employ a doctor to attend your very sick wife or child, you don't think yourself exclusive, you don't count yourself an aristocrat because you make diligent inquiry to obtain the

best doctor you can get. When you are seeking to recover just compensation for a gross injustice done you, or are defending yourself against a dangerous and fraudulent suit against yourself for heavy damages, or are seeking to save your property from total loss at the hands of some one whom you have unwisely trusted with it, you cannot be called a patrician, or a snob, or an aristocrat because you try to find a lawyer who is the ablest and best fitted man to preserve your rights at the Bar. The rules for preparation for the profession of the Bar were adopted for the purpose of making it more likely that you can find such a well-prepared lawyer, and making it less likely that you will hazard your important interests, important at least to you, by placing them in the hands of a man who practices law but who may not know enough to protect them as a competent lawyer would. It will not make certain that every lawyer is competent but it will certainly reduce the number of incompetents. We make haste slowly in this world in reforms. But it is important that we shall be constantly moving in the right direction.

The first topic for discussion is that of the justification of the proposed requirement of at least two years of college experience and training in view of the technical education necessary to make an efficient lawyer. I am asked to say that it is expected that the speakers will not consume much more than a quarter of an hour apiece. I have the pleasure of introducing Prof. Samuel Williston, of the Harvard Law School.

Samuel Williston, of Massachusetts:

There are more reasons than one which make it desirable that one who proposes to study law should have had at least two years of college experience and training in order that he shall obtain the grasp of legal theory and principle that is essential to a well-educated lawyer.

In the first place, two years of college training insures some degree of maturity in the student, and the effective study of law demands a mind of some maturity. The childish gift of memory is by no means to be despised, but the law student who relies entirely upon that is doomed to failure. Nor is pure logic, though vital in legal study, the only power of mind which a

student of the law should possess and exercise. Perhaps the highest mental faculty which a great lawyer ultimately acquires is wise judgment, based not only on memory and logical deduction, but on a wide range of comparisons and inferences too numerous and too subtle for complete classification. This faculty is of slow growth, but its development should be begun and carried forward while a student is engaged in mastering a knowledge of technical law, and the faculty is one which can be evolved and educated satisfactorily only in a student of somewhat mature years.

If years alone were requisite, this desideratum could be obtained by fixing an age limit for students entering upon legal studies; but years alone will not suffice, the years must have been spent in such a way as to fit the young man for the work which is before him. Law is a bookish profession, and it is inevitable that it should become more so. Illustrations of great lawyers of past generations who have achieved success with slender knowledge derived from books are misleading. The printed sources of Anglo-American law have been more than doubled in bulk in 30 or 40 years. There are more law reports in English printed since 1885 than were printed prior to that year from the beginning of English law reporting. The bulk of statute, moreover, is enormous. No lawyer can be efficient now who has not some ability to use books and extract from them quickly and accurately the principles which they state. The law student at the very beginning of his course, and throughout his course, must be plunged in the midst of books. It is not an adequate or sufficient technical education for him to learn brief summaries of the main topics of the law. He must be able to investigate the original sources and learn to do this easily and quickly. Only by previous considerable use of books is he likely to have facility in using them, and in extracting quickly from language frequently containing large words and involved sentences, an accurate conception of their meaning. The curriculum of the law school is already overcrowded and much time cannot be spent in training students in the capacity to look up references quickly and extract from them readily their meaning. I am assuming, it will be seen, that the student is to acquire his technical education in a law school. That this is now the only desirable way

need not here be argued; but I may say parenthetically, that a student who endeavors to prepare himself for the Bar without entering a law school has even greater need of preliminary general education.

In order to understand fully the importance of maturity and preliminary education before the work in a law school is undertaken, the character of that work should be understood. It is not what it was a generation ago. Students of the better law schools are not now given little elementary books from which to memorize formal rules. No great capacity beyond that of memory is necessary to learn that mutual assent and consideration are prerequisites to the formation of a simple contract. But we have learned how little the memorizing of such rules gives a student. The test of experience has shown that to get an adequate legal education a student must study cases—the source of most of the law. Not the capacity to state a principle in an approved memorized form, but the ability to apply the principle to actual facts is what constitutes a lawyer. As in natural science, so in law, dividing lines are shadowy. It is often as difficult to fix the precise boundary between legal right and legal wrong as that between the animal and the vegetable kingdom. Only by observing the applications made by the courts of the principles which they lay down can a student acquire an adequate idea of where dividing lines should be drawn.

The development of the case system of study and teaching has resulted in an enormous improvement in the capacity of graduates of the best law schools. It is often stated that a student on leaving the law school has but a small accumulation of knowledge of the law, which he will increase as the years go by in the practice of his profession. This is misleading. A third year law student in one of our better law schools, on graduation, knows more in the way of legal principle and theory than he will ever know again. This may make distinguished members of the profession smile, but if they will take a series of the examination papers which our students pass and look them over carefully, with a view to writing adequate answers, they will be likely to take my statement seriously. How many members of the Bar in good standing, with Bar examinations years behind them, would be willing to wager that they could pass now the Bar

examinations in a state where such examinations are as rigid as they are in many places—though nowhere are they as severe as in the law schools of the highest grade.

I must not be understood to make a broader statement than I intend. After admission to the Bar lawyers learn practice and procedure and methods of applying their legal knowledge most effectively. They also learn how the business affairs of life are conducted of which law students are not infrequently very ignorant. On certain topics in which they happen to become specialists they learn the law with a thoroughness and detail which no law student can equal; but for a broad conspectus of legal principle and theory, the law student on graduation almost invariably is, as I have said, at a higher mark than he is likely again to attain.

Now it is at best a hard test for beginners, to plunge them into the law reports and endeavor to make them extract from the decisions the meaning that is in them. If the work is well done the student must learn to extract this meaning himself, not merely be told what the professor thinks about it, with directions to memorize the professor's opinion. At the beginning the student will need much help in this work; as he proceeds he becomes more independent, but, at best, it is a severe intellectual exercise, and therefore, as I have said, a student should have considerable practice in using books and extracting the meaning from the written word before being subjected to it. This is merely saying the same of law books that might be said of any subject new to the student and couched in difficult and technical terms.

It may be asked—are not the law schools of which I speak going too far? Is it necessary for students to learn so much? It is necessary if the law and its practitioners are to be made even approximately as good as can be. It is increasingly necessary as the years go by, as law books multiply, as life and business methods become more complex and as it becomes increasingly impossible for original intuition to achieve valuable results unless accompanied by knowledge of what has been done in the past.

Besides the maturity and general intelligence in using books and language which may be expected from one who has had some college training, and which are less likely to be found when one has not had this advantage, the specific studies which are

taught in college have a distinct, though often indirect, bearing on the work which a lawyer is called upon to do. As rules of law are merely rules governing the life of a community, all knowledge relating to the life of the community is of indirect advantage to the lawyer. Rules of law should coincide with wise economic policy, and one who has no conception of economic policy is not a well-trained lawyer. This is more apparent in some branches of the law than in others—labor disputes, railway administration, restraint of monopolistic combinations, all involve fundamentally economic questions, and law must be brought into harmony with a wise economic solution of such questions. One who has had no college training is not likely to have an intelligent understanding of economic theory on which to base a study of the law governing such problems, and few indeed are those for whom the possibility of broad systematic study has not ended when they begin the actual practice of their profession. The study of history also furnishes a background enabling the student in his technical studies to grasp better the idea that legal principles are an evolution, that in varying degrees they are always influx and must be studied with reference to time, place, and circumstances, and adapted to them.

More important even than these special studies is the capacity to use the English language. To read it understandingly, to write it and speak it correctly and effectively. While it must be sadly admitted that college students are frequently defective in these respects, at least they are better than those who have not had college training.

It may be asked, are there not other and better ways to secure desired results than through an imposed rigid requirement of college training. On the whole, the answer must be, "No." It is not possible by examination to ascertain the student's proficiency with any degree of accuracy, and the element of time spent in studious pursuits is in itself of great importance.

It will be urged that though the preliminary training suggested may be desirable or, indeed, necessary for many or most students, some at least are perfectly able to undertake the study of law even under the strenuous conditions now existing in the best law schools, and to profit by it. It must be freely admitted that there are such young men. There is no doubt that high

native ability is even more important than preparatory training and that some students that have had no college education will surpass many who have had a full term at college. This does not dispose of the question, however. The question is not whether such brilliant young men can with some degree of success master the required legal studies, but rather will they be much the better for having had two years of college work; and in regard to this I think the answer should not be doubtful. For the very reason that their distinguished natural talent would enable them to do better than most of their companions, so they would derive from two years work in college greater benefits than other men. These brilliant youths are the very ones whose wings should not be clipped by permitting inadequate preparation. That their resolution to study law will be affected by a higher requirement than has prevailed in the past, is extremely unlikely. They will fulfill a new requirement as in the past they have fulfilled lesser requirements, and they will have permanent cause to be grateful to those who refuse to allow them to enter into a profession with inadequate training.

Moreover, rules must be judged by their general effect. Lawyers do not need to be told that the best rule may not work happily in every case and that effects must be considered as a whole.

This question is not wholly one of theorizing. There are many law schools in the country which have had experience which should enable their teachers to give opinions of value. A large proportion of the leading law schools of the United States now require a college degree, or at least two years of college education, as a prerequisite for admission. Thirty years ago not a single law school had this requirement. Very many teachers of law, therefore, have had pupils admitted without college training, and have subsequently had opportunity to observe the effect of requiring college work as a prerequisite to admission.

I am not in a position to give statistics, except with reference to the Harvard Law School, but I think I may say, without fear of contradiction from those who have had such experience as I speak of, that a number of men are eliminated who would better never have studied law because of their inferior mental equipment, and that the better class of students is improved by longer

preliminary education. As to the Harvard Law School, our secretary has prepared a brief table showing the results actually achieved by those in the school who had a college degree, and by those who had not. Practically none of the latter had any college training; but most of them had a high school education, and as a prerequisite to admission were required to pass an examination in Latin, French and Blackstone.

I should say further that in the Harvard Law School at the time of these figures 75 per cent was an honor mark attained by few and 50 per cent was required for a bare passing mark.

Comparison of the work of college graduates with non-graduates entering the Harvard Law School in the years 1892-1896:

	College graduates		Non-graduates	
Year	No. of graduates in first year class	Average grade	No. of non-graduates in first year class	Average grade
1892.....	89	67%	17	60%
1893.....	88	66%	18	58%
1894.....	97	64%	19	57%
1895.....	99	65%	38	54%
1896.....	138	65%	43	57%

Julius Henry Cohen, of New York:

Mr. Chairman, the Committee on Arrangements has not presented any rules for the government of the Conference. It was deemed desirable that there should be no rules. The Conference is a conference, and that means that there is to be a general discussion from the floor. But in view of the fact that the next two speakers are very brief, I would suggest, sir, on behalf of the committee, that we hear those two gentlemen before we proceed with the general discussion, and while I shall not offer any rule or any motion to that effect, I ask for unanimous consent that that be done.

Chairman Taft:

We will take that for granted. A good many years ago I presided at a dinner of Governors engaged in celebrating the Put-In Bay victory of Commander Perry. It was a protracted session, and at 3 o'clock in the morning the Governor of Indiana arose to read a very excellent paper on the question of international peace. Having read at some length, the audience at that time being in the condition that you suggest that the Supreme Court

may be in sometimes, that is, somnolent, he began his peroration with the remark "Am I dreaming?" and it woke the audience. Now I have the pleasure of introducing Governor Ralston, of Indiana, to speak on the subject before the house.

Samuel M. Ralston, of Indiana:

The Chief Justice told the truth in introducing me as far as he went. I actually talked my audience to sleep, but I promise you, unless you are very much exhausted at this time, that I will not have, I hope, the same effect upon you today.

I wish he might have gone a step further in introducing me, because I am known to only a few of this splendid audience. I think it would have been permissible for the Chief Justice to have told you that in my state I have been proved to be a man of good moral character.

The Constitution of Indiana provides that any man may be admitted to practice law who has a good moral character, and I have got mine.

The justification of requiring two years of college training in view of the technical education necessary to make an efficient lawyer has been ably maintained by the paper we have just heard. The speaker has long adorned the legal profession, and his services as a teacher and author have placed not only the legal profession, but our country, under obligations to him. Whatever he says on any subject is entitled to the most respectful consideration.

Neither the paper nor the subject it treats can be given a very full consideration in the few minutes allowed me. I have no doubt, however, that others will speak on the subject—some in favor of the position taken by the speaker and some against it, so that by the time the discussion closes, we will all have a fairly definite notion on which side of the line we desire to stand.

When I was invited to open this discussion, I recalled that the subject we are considering was before the American Bar Association at its last annual meeting, and upon consulting the report of that meeting, I was impressed that the last word had then been spoken, both for and against the proposition, namely, that before one should be permitted to take up the study of the law, he should have had two years college experience and training.

All will concede that the more liberally a boy is educated, before he begins the study of the law, the more easily he will master legal questions and become an efficient lawyer.

The question presented by the paper, however, is not whether a well rounded out education is a thing to be desired, before the study of the law is entered upon—that is conceded by all—but it is contended therein that two years college training shall be a prerequisite to entering upon the study of the law. In other words, the boy who has not had two years college training shall not be permitted to qualify himself for the legal profession, if the advocates of a two-year college course have their way, even though he has a better basis on which to build a legal training than has the chap with two years' experience in college to his credit.

Perhaps my statement is broader than the language of the paper, but I do not mean it to be. You have in mind the wording of the proposition we are considering, and you remember that in his first paragraph, the speaker informs us that "There are more reasons than one which make it desirable that one who proposes to study law should have at least two years of colloge experience and training." The implication from this is that if one, proposing to study law, has not had two years' college training, he should neither be permitted to enter a law school nor to take up the law as a profession.

A law school supported by private funds has the right, of course, to fix its own standard of admission for those desiring its advantages with the view of becoming lawyers, but I maintain that no institution, supported by public funds should say to an American boy that he cannot become a lawyer, unless he first wrestles for two years with a college curriculum.

I believe in colleges, and I endorse the wonderful work they are doing, but I am not willing that even a college shall bar a boy from becoming a lawyer who has not been fortunate enough to avail himself of collegiate training for two years.

There is much in this paper that I heartily endorse. I concede that college training will mature the judgment of a student, and sound judgment is essential to the lawyer. I concede that college experience will enable a student of the law to make better use of legal textbooks and law reports, and to become more

familiar with economic and social questions, and that these will add to his equipment as a lawyer. Certainly it is true, as the paper suggests, that a college education will be of great advantage to one who desires to be admitted to the Bar, but if he has not been fortunate enough to have been schooled in a college, is it right or wise to deny him admission to a law school or to the Bar, when he shows that he is mentally equipped for such admission? There is no rule of justice that will withhold from him the right of admission in either case, on the ground that he has not had two years' experience in college.

I would not leave the impression that I am indifferent as to whether a law student has had the helpful assistance of a law school or not. Law schools afford their students very great advantages and qualify them, as a rule, much better than a boy can be qualified for the law in a law office. In truth, I believe so strongly in the work of law schools, that I do not want to see them fix their standards so high that none but boys who enjoy liberal financial means, or who subject themselves to severe hardships, can hope to receive a law diploma.

It smacks of a tragedy to say to a worthy and ambitious youth that he has the ability to do the work of a law school, but that he cannot get a law school education because he has not had two years' training in college, or that he cannot qualify himself for the Bar for the same reason.

While I do not advocate a low standard of mental equipment and training for lawyers, and freely admit the probability of better service being rendered by attorneys of exceptional qualifications, I take the position that an arbitrary requirement of two years college training is not the proper solution and in many cases would result in unnecessary hardship.

Admission to the Bar is often perfunctory and signifies no particular preparation for the practice of the law. This is not as it should be. A standard for admission to the Bar, showing a liberal preparation to practice law, should be maintained by each of the states, but such a standard should be satisfied when it discloses the requisite ability for the practice of the law, without regard to how that ability was acquired.

The admission requirements should undoubtedly include a good elementary education, the knowledge of how to find the law,

and the ability to interpret correctly statements of legal principles and important decisions and statutes, and to know the basic principles of the common law. The ability to analyze, distinguish, and apply principles is also essential, but it does not necessarily follow that these prerequisites can be acquired only by first pursuing two years of collegiate work.

The requirements I suggest will meet the rule of fairness exacted by a sound Americanism, and will develop a class of lawyers sufficiently qualified to safeguard the rights of litigants and wisely to counsel those seeking legal advice with the hope that they may avoid being drawn into the courts. If lawyers can be brought to average up to the standard these requirements would establish, the legal profession would be able to discharge its duty to society and government.

And, after all, it is the man of average ability who is the salt of American citizenship. The average teacher in our schools makes the greatest contribution in character building. The average farmer, and not exceptionally superior farmers, feed the world, and it is to the average lawyer, in point of character and ability, to whom the people can look with the greatest confidence for the enactment of wholesome laws and the wise interpretation thereof. Any system of study or training that will produce this kind of a lawyer should have the approval of the legal profession.

Chairman Taft:

Now we will have the pleasure of hearing from another Governor, a gentleman who for some years was Governor of Missouri and for some years has been at Boulder, Colorado, a professor and lecturer at the law school of the university of that state.

Herbert S. Hadley, of Colorado:

Speaking from the standpoint of a teacher of the law, I am somewhat in the situation of my old friend Pearce, of Kansas City. He was once summoned on a jury and when the judge asked the panel if there were any reasons why any of them should be excused from service, Pearce said, "Yes, I have an excuse, your honor, I am a lawyer." The judge then said, "Well, Pearce, you are not enough of a lawyer to hurt anything, and so I will keep you on the panel."

So while on the particular subject of legal education, I fear I am not qualified to speak, on the broader aspect on which I have been asked to speak, so much has been said, and well said, that it seems almost the work of supererogation to undertake to add anything; but I do feel, and feel strongly, both from my experience of 25 years at the Bar, and as a public official dealing largely with lawyers during the limited time that it has been my good fortune to be connected with education, the necessity of preliminary college training to make a lawyer in the broadest and best sense of the word. But before turning to that phase of the proposition I want to emphasize what the Chief Justice has said as to the surplus of production of lawyers under our present system of legal education and admission to the Bar. I believe as I have read the literature of these discussions that that point has not been sufficiently emphasized.

Some years ago, as I recall it, the University of Michigan made an investigation as to the extent to which the graduates of that law school were pursuing the practice of law, and it was found that 10 years after graduation less than one graduate in five was then making his living by the practice of the law, and it would seem that there is no doubt that the statistics of that institution would apply to other institutions of the country. The conclusion is irresistible in my opinion that the quantity is exceeding the demand, and the quantity is increasing rapidly today without reference to the quality. It is also interesting to note that the increase in the number of law schools and the increase in the number of students in the law schools has gone forward in about the same proposition as the decrease in the medical schools and the decrease in attendance at medical schools since the medical profession began to put its house in order.

Now, while I do not mean to say that the study of the law, even for those who do not practice it, is without beneficial results, yet I do mean to say that we should maintain the law schools for the production of lawyers. But the question can, in my opinion, be placed on a much higher and more controlling theory than this, and that is on the theory of the welfare of our profession and the proper administration of justice in our courts.

It is stated by the Chief Justice in his excellent introduction that our profession is a learned one, and I suppose that the

Chief Justice has the last guess upon a question of that kind, as well as the last guess upon the question of what the law is. But I undertake to say—and I have made inquiries to settle in my own mind this question—that at the present time—and I speak particularly of the Central West, with which territory I am familiar—no presumption of learning or culture is indulged by the general public in favor of one simply because he is a lawyer. I might go further and say that no presumption is indulged in favor of one from the standpoint of moral character simply because he is a lawyer.

Upon last Sunday, when I left the City of Denver, I read in the newspaper a statement of the District Attorney of that city, a city of 300,000 people, to the effect that after a year and a half experience in the admitted enforcement of the criminal law he had found that the lawyers who represented the criminals were as criminally disposed as the men they were defending. I can speak from the standpoint of an experience of six years of trying to put men in the penitentiary, both through the trial and appellate courts, and four years' experience in letting them out of the penitentiary, in which I had to examine a great many records in criminal prosecution. I think I am entirely conservative when I say that I think in two-thirds of those cases in which I have had actual experience, I am certain that in a majority of them perjured testimony was offered in behalf of the defense. But the question does not relate only to the standing of our profession, the question concerns itself as to the effect of this condition upon the administration of justice, and, whether or not the opinions that I have expressed in reference to the profession are true, there can be no question of the public's dissatisfaction with the administration of justice in our courts.

Why, Mr. Chairman, we can easily recall the time 10 years ago when the paramount issue—and paramount issues, remember, at that time, were the questions in American life—the paramount issue in American politics was the relation or attitude of the American people towards their courts. That dissatisfaction found expression along two lines: First, for the failure of the courts to properly administer justice in ordinary civil and criminal cases, and, second, upon the ground that the courts by their reactionary positions in the decisions of ques-

tions involving social and industrial justice were defeating the will of the majority in the enactment of laws for the regulation of those questions. The dissatisfaction upon this latter ground became so pronounced that it constituted one of the leading causes for the organization of a great national party, and one of the foremost leaders of American thought and action, Theodore Roosevelt, a man who was correctly described by one of his French admirers as "The greatest voice of the Western World," advocated the submission of the decisions of judges upon such issues to review by popular vote. And the distinguished Chairman of today's meeting said in a public address that "the administration of criminal justice had practically broken down of its own weight, and that the administration of criminal law in all of the states of the union, with one or two exceptions, was a disgrace to our civilization."

I believe that it could be said that no statement by any public man in the last 50 years upon a non-political issue attracted such attention or has been so often quoted as this strong indictment of our judicial system by Chief Justice Taft.

Now, with that situation existing, the question arises has it improved since that time? Are the people, because they are not discussing much questions today, any better satisfied with their courts than they were 10 years ago? I believe they are not. The Great War, with its aftermath, has, of course, absorbed the attention of the American people; but that same inquisition of both our profession and the administration of justice is going to come again and we should be better prepared to present an answer to that question when it does arrive than we were prepared to present an answer to it ten years ago.

The statistics which cover the present situation of this country are likely in my judgment to make this dissatisfaction more pronounced than it was then, for from 1912 to 1918 there were more people murdered in this country than there were American soldiers killed in the World War.

Prosecutions in United States Courts increased from 9500 in 1912 to 70,000 in 1921, and in 1921 the property loss by reason of thefts from public transportation companies reached the immense sum of $100,000,000.

Now the question is what is the remedy, what is the correction for those conditions—because our profession cannot escape responsibility for the administration of justice in our courts. Men who preside over the courts of this country are taken exclusively from the members of our profession. The active agencies who present the questions of law and of fact for adjudication by the courts are members of our profession. And, in the final analysis, we must answer and accept responsibility.

I do not mean to say, in suggesting that education is the remedy, that an educated man is always a good man or an able one, because I have known many men who spent a number of years at Harvard and never acquired anything except an accent, and I have known many men who attended Yale and Princeton without any result except to be able to smoke a pipe with distinction. And yet unless the whole theory of our government, unless the whole theory of our system of public education is wrong, the solution, and the only solution of this problem, is education and more education.

There is even yet a broader view than I have stated in reference to this question of higher educational standards for our profession. The theory of democracy, as James Bryce says in his very able discussion of the subject, "is that the right to vote will carry with it the will to vote, and that the will to vote should go hand in hand with the ability to understand the questions to be decided."

When Great Britain took her first step towards universal suffrage, Robert Lowe, one of the leaders in opposition, declared in Parliament, "Educate your masters." The justification of the expenditures in this country of more money by the state and local governments upon the support of education than in the support of any other, and in many cases than of all the other departments, of government, is that we must have an educated electorate; and to be educated, it is not sufficient, as Mark Twain said, to be able to sign your name without sticking out your tongue. An educated voter does not mean one with merely the ability to read and write. It means one with a mental development, capable of understanding and deciding public questions and voting upon them understandingly, and particularly is it necessary for the welfare of our country that the lawyers should be educated men in

the broadest and the best meaning of that term. All the members of one department of our government come from our profession; two-thirds of the executives of the states of the union, I believe, come from our profession, and if we have not furnished the majority of the members of the legislative bodies, both the National Legislative Body and the legislative bodies in the states, we have certainly furnished a larger number to such bodies than any other single profession or trade or occupation. In one sense the majority of the members of our profession constitute a governing class, and as De Tocqueville said, we constitute a counterpoise for democracy. If our system of jurisprudence was a set of arbitrary rules, if it was founded only on logic or philosophy, it might be properly mastered and practiced by uneducated men. But it is not. It is the product of the lives and hopes, the struggles and aspirations of those who have lived and wrought since civilization began. And what is true of the problems of the law is true of problems of government.

And therefore unless our very theory of government is wrong, unless our theory of public education is wrong, the need of higher standards for admission to the practice of the law is clearly evident.

Mr. Chairman, if I may trespass a moment, I want to say a word in conclusion in reference to the practical side of this question—because I believe it was Colonel Roosevelt who said to Harriman, on a historic occasion, "We are both practical men," and I trust in dealing with this problem we are all practical men.

This work of bringing about the raising of the standards for admission to the study of law and for admission to the practice of law I believe is peculiarly the work of the American Bar Association. I do not believe the members of this Association underestimate the difficulties that confront them. We will find in the Supreme Courts, where they deal with the question, mostly men who were educated under the old system of the inadequate law school or the law office. We will find in the legislatures the country lawyer whose legal and general education has not been extensive, and it will be a difficult proposition to secure the rules necessary for the accomplishment of the result. But the work of the medical profession in what they have accomplished in the correction of their conditions, the history of the last four amend-

ments to the Federal Constitution, and particularly the Eighteenth Amendment to the Federal Constitution, show what can be accomplished and how quickly by men who know what they want and are determined to secure it. In this work in my judgment we should heed the Scriptural admonition that no man having put his hand to the plow and turning back is fit for the Kingdom of God.

Chairman Taft:

The second topic is the effect of college experience and training in developing the desire and ability to understand and maintain high ideals of professional conduct. This is a topic to be introduced by Mr. Silas Strawn, of Illinois.

Silas Strawn, of Illinois:

For more than 30 years I have been actively engaged in the general practice of the law in the City of Chicago. During that entire period it has been a part of my duty, as well as my pleasure and privilege, to direct the work of an average number of 25 lawyers born and educated in different parts of the United States. They have had all of the different degrees of education, both preliminary and legal. There have been graduates from the great universities of this country and of England who have subsequently taken degrees from our principal law schools. There have been graduates of part-time law schools and of evening law schools, with and without the advantage of a preliminary training either in a college or a high school. There have been others who have graduated from part-time or night law schools after having had preliminary college experience. And there have been still others who have acquired their legal training in an office, without ever having attended a law school or a college.

I dislike exceedingly to detail my personal experience, but it has been suggested that the testimony of a witness is entitled to consideration only in so far as he is shown to have had an opportunity to know the facts about which he is called upon to testify. May I ask you, in what I shall have to say, to treat my remarks as purely impersonal, and to regard them only as the experience of an impartial observer of the subject under consideration.

That a college experience and training develops the desire and ability to maintain high ideals of professional conduct seems to me incontrovertible. If this conclusion is not sound, then it necessarily follows that all education and all systematic training and discipline is a failure.

A college education presupposes:

1. Advantageous environment.
2. Opportunity for systematic mental discipline.

Can there be any argument upon the proposition that a student in almost *any* college or university has not a tremendous advantage in the development of habits of application, concentration, industry, manliness, courage, frankness and, indeed, everything that goes to make for general culture, influence and power over him who is not surrounded by the daily atmosphere of college life? The college age is when the youthful mind is most formative and receptive.

Cardinal Newman well said:

"The practical business of a university is training good members of society. . . . . College honor is the keenest in the community and no higher ideals can be found on earth than in the best thought of our best universities."

Therefore, it seems unnecessary to argue that a college affords an advantageous moral environment. Every one must admit that fact.

That the college or university affords an opportunity for better mental discipline is also an undeniable truth. However naturally able or industrious the student's mind may be, it must inevitably follow that the application of that mind in an orderly, systematic way *all* of the time will produce infinitely better results than will its application at *will* or but *part* of the time.

It has been my invariable experience that, given two minds of approximately equal inherent capacity, the college trained mind when brought to bear upon the solution of any problem requiring concentration and orderly thought will demonstrate greater efficiency than the mind without that training. It is also true that in the practice of the law the college trained mind manifests higher moral conceptions and a keener appreciation of the ideals of the profession.

Although to say it is trite, nevertheless too much emphasis cannot be laid upon the fact that the law is a learned profession.

Never in the history of the world have the requirements for the successful practice of the law been so exacting. With the constantly increasing complexity of our governmental machinery and the creation of bureaus and commissions to perform the various functions of the nation and the several states, the preparation of the lawyer of today to do the work required of him never ends.

To meet the requirements of the modern captain of industry (whom we lawyers must admit to be our source of supply), the lawyer must not only be more familiar with the general principles applicable to the business of the client than is the client himself, but, in addition, he must bring to the solution of the many problems with which he is daily confronted a broad, general knowledge of what is going on in business, political and financial affairs not only in our own country, but throughout the world.

The lawyer is frequently referred to by his client as the one who "keeps him out of jail." This does not necessarily mean the client is morally oblique and that the lawyer enables him to evade the letter of the law. It is because the lawyer has a broader vision and a better knowledge of the essential difference between right and wrong. It sometimes becomes his duty to impress upon the client that "honesty is the best commercial policy." I say *commercial* policy and thereby avoid the realm of controversy into which he might be precipitated if he dealt with relative morals.

No lawyer can expect to attain any considerable degree of success unless he commences his professional studies with the background of a faithfully pursued college course.

We hear the argument that the poor cannot afford to engage an expensive lawyer and that to supply this demand there must come to the Bar practitioners who have so small an amount invested in education that they can afford to sell their services cheaply. I submit this is a mistaken idea of helpfulness. Can any one deny that a cheap lawyer is an expensive luxury? Is it not frequently true that the so-called cheap lawyer charges more for his services than the capable one? There are two reasons for

this: (a) His experience and practice are so limited that he has no opportunity to acquire any sense of proportion as to the relative importance of the services performed by him, and (b) he has not developed the requisite moral conscience or ideal of professional conduct to overcome his inherent predatory desire to follow the advice of Mr. Means in the Hoosier School Master, "Git a plenty while you're gittin, I say to Mirandy."

The deplorable truth is that the poor generally pay more for less efficient legal service, rendered by incompetent lawyers, than the well-to-do pay for similar services rendered by lawyers of recognized ability and standing at the Bar.

The major portion of the vast amount of corrective work performed by the Chicago Bar Association consists in the restoration to unfortunates of money and property of which they have been robbed by unscrupulous lawyers who regard their license to practice their profession as a license to loot.

For two years it was my privilege to serve as a member of the Committee on Character and Fitness of candidates for admission to the Bar of the State of Illinois. During that time there came before our committee more than 400 applicants. Speaking generally, the weakness of the character and fitness of these applicants did not consist in their lack of technical knowledge requisite to pass their examinations. It was because they were lacking in the appreciation of the ethics of the profession and of the moral obligations which rests upon a member of the Bar. Many of them were imbued by a desire to take a short cut to a license because they craved the opportunity to prey upon clients. Others regarded admission to the Bar as a badge of honor without any appreciation of its attendant responsibilities.

It was our unvarying experience that the lack of ability to distinguish between right and wrong and the failure to realize the ideals of the profession were most prevalent among those who did not have a college training.

Therefore, while it may be admitted that there are exceptions to the rule, and that a college education with its advantageous environment and disciplinary opportunities does not always overcome an inherent moral obliquity, I submit there can be no supportable argument against the proposition that a college experience and training necessarily develops "the desire and the

ability to understand and maintain high ideals of professional conduct."

Chairman Taft:

The next subject for discussion is that of the economic conditions and educational opportunities in the United States which enable the ambitious boy of small means to obtain at least two years of college training. The topic will be introduced by James B. Angell, President of Yale University.

James B. Angell, of Connecticut:

The cost of professional education in the United States has in recent years been rapidly advancing. This fact reflects in part the general rise in the cost of commodities and of services of all kinds and in part the raising of standards for entrance into the professions. We have not as yet reached a state of equilibrum in either of these factors, and any statements which are made today will presumably be subject to substantial revision a decade hence. Nevertheless there are certain general tendencies discernible whose fiscal aspects can be evaluated with measurable certainty; and in response to the invitation of the officers of this Association, I shall attempt with some misgivings to discuss briefly the subject indicated by the title of my paper.

I understand the premise upon which the discussions of this paper are predicated is that applicants for admission to the Bar shall be graduates from a reputable law school, entrance to which requires at least two years of college training. Assuming that the average boy at present enters college at about 18, it would follow that under this program he would be 20 years of age before beginning the explicit study of the law, would be at least 23 upon graduation from the law school, which it is assumed would comply with the present three-year curriculum of the better schools. Men possessing real capacity and enjoying reasonable fortune in the securing of openings for practice might then perhaps expect within another two years to be fairly on their feet financially and to be no longer a charge upon their parents or guardians, nor under further obligation to support themselves by other than their professional work. How soon they can afford to marry and assume the costs of rearing a family is another matter, but

one whose social aspects are assuredly of prime consequence in this entire problem. It may be that, quite apart from the cost of the two additional years required for collegiate training under the program we are discussing, the mere extension of the time demanded would prove a critical element in the minds of many young men. Evidently scholarships and the like would have no bearing whatever upon this consideration. Possibly this factor may preserve to a useful trade some men who otherwise might attempt to adorn the Bar. It is a common saying at the present time that no intellectually competent lad, who enjoys moderate physical health, need be debarred from a collegiate education, if he is really eager to secure it. I think this statement is wholly inside the facts, although it perhaps suggests a smoother path than often lies before the impecunious boy, particularly if he does not enjoy the gift for making friendships and in general gaining the confidence and regard of these among whom he is thrown. All of us who have had extended experience in collegiate affairs can recall occasional boys who, coming to college literally without a cent, have managed not only to support themselves while in college, but to lay up something for the future and in the course of the process have given no external indication of lack of money, have apparently had their college work disturbed in the least possible measure by their money earning, and still less have exhibited any inability to share in the ordinary social and extra-curriculum activities which constitute those characteristic features of American college life most cherished by the undergraduate. On the other hand, we have seen many a lad struggling against adversity, often at considerable cost to his health, and still more often at the cost of certain of the real values of the education which he is attempting to secure, sometimes being obliged very greatly to extend the period of his training, to say nothing of the sacrifice of social relationships which he has been compelled to make in the process. On the other hand students who have to fight for an education gain certain moral and intellectual advantages whose value can hardly be over-estimated. I call attention to these considerations because, in the citation which I am about to enter upon of estimated costs for college training, it is quite essential that due allowance be made for the

very wide difference in the capacities of students to carry on academic study while engaged in gainful occupations.

It is doubtless well recognized that collegiate conditions vary at present very widely in different parts of the country, especially as regards these matters of cost. Throughout the east, in the older educational foundations, tuition fees are relatively high, as are also law school fees. On the other hand, throughout the regions where the state universities have been developed most extensively, collegiate tuition for residents of the state is often nominal and generally relatively low, although non-residents are almost invariably charged at a materially higher rate. Generally speaking also, the fees at part-time and evening law schools average probably somewhat less than at the full-time institutions. In considering the element of cost therefore, one must have due regard to these local and institutional differences.

I judge that one question in the minds of those who are advocating the general policy under discussion concerns the extent to which scholarships and loan funds may now be available for students who, desiring to enter upon the study of law, would find the cost of the training under the program suggested prohibitive. I shall in a moment present certain figures regarding tuition charges and scholarship funds, but I wish to make it clear at once that, despite the necessary incompleteness of these figures, there can be little question at all that the scholarships and financial aids at present available to law students are wholly insufficient substantially to affect the situation. In 1920, for example, of the six largest law schools, only one required more than high school preparation. Approximately 4000 students were in these five largest schools requiring no collegiate training, while less than 900 were in the institution which did make such demand. I have every reason to believe that, if the sum total of the students in these lower grade institutions be compared with those in institutions requiring at present two years of college discipline, the above ratio would not be greatly modified. The existing scholarships are in most of the colleges regarded as insufficient to meet the present needs and if there were added to the college population the thousands of law students now in schools requiring no collegiate work for entrance, those resources would be hopelessly inadequate; nor is there any assurance that under

competition the prospective law students would secure a share at all proportionate to their numbers. The complete insufficiency of present scholarship aid to care for any considerable part of these students now in the lower grade law schools is therefore certain.

There are some institutions in which men can secure two years of academic collegiate training by evening or late afternoon work, thus permitting them to use the larger part of the day for financially profitable occupation; these institutions are not many in number and are not widely distributed. Moreover, the added cost of the tuition for such additional years must in any case be counted in. Although any such prediction is precarious, I think it is highly probable that a considerable proportion of the men now in the lower grade schools would be excluded altogether from the study of the law, by discouragement, if by no other more compelling cause, were the two years of collegiate training made prerequisite. Whether from the social point of view, or from the professional point of view, such a result should be regarded as an unmitigated disaster, I do not venture to allege, though I suspect it would be mainly the weaklings who would be deterred and the Bar can perhaps do without such; but I am quite aware that to a large body of opinion it would be most unwholesome and at variance with our supposed traditions.

Doubtless had the writer of this paper found time for a more careful assembly of statistics, his figures regarding tuition charges and scholarship and loan funds could have been made substantially accurate. As it is these figures, taken from the college and university official publications, are believed to be entirely trustworthy as regards the general trends which they reflect, although they may well in particular instances be slightly inexact. On the other hand, it is extremely difficult to secure figures regarding the significant costs apart from tuition, for these rest upon all kinds of shifting and inaccessible conditions, not the least of the difficulties being the wide variations in individual adaptability and willingness to incur discomfort. Nevertheless it is at precisely this point that the larger part of the cost for the boy thrown on his own resources is inevitably located. Even in the case of the institutions with high tuition

these "cost of life" charges are sure to be considerably in excess of the other items.

Collegiate tuition for a normal amount of work costs per year: $200 at Amherst, Cornell, Lehigh and Williams; $240 at New York University; $250 at Dartmouth, Harvard, Pennsylvania, Princeton and approximately this amount at Columbia; $300 at Massachusetts Institute of Technology and Yale. Generally speaking tuition at the smaller New England and similar colleges averages somewhat less than these figures, but $150 is about the lowest charge for institutions which would be generally regarded as belonging to the same academic group and some run above these figures. In the extreme west, Stanford University has a tuition charge of $225; in the middle west, the University of Chicago a charge of $180, and Washington University, St. Louis, $200; in the south, Tulane University a charge of $125; in the District of Columbia, Georgetown University $150, and the Catholic University of America, $200. These are all examples of institutions on private foundations and it must be understood that in many of them there are substantial accessory charges for library, gymnasium, laboratory, athletic and health department fees which cannot be conveniently summarized, but which aggregate in certain instances considerable sums.

Among the state universities, tuition charges vary very widely. At the University of Wisconsin, University of Missouri, University of Tennessee, University of Ohio, and a few others, tuition for residents of the state is free, although there are in sundry instances incidental fees of one kind and another which amount to something. For non-residents of the state there is in Wisconsin a charge of $50 a semester, at Missouri $10 a term, at Tennessee $40 a term, and at Ohio State $50 a semester. At Michigan the charge for residents of the state in the Department of Literature, Science and the Arts is $80, for non-residents $105. In Indiana the resident pays $50 a year, the non-resident $85. In the University of Washington the resident pays $45 a year, the non-resident $150. In the University of Illinois in the Arts Department students pay an incidental fee of $15; University of Colorado, $15 for residents, $30 for non-residents; North Carolina $20 a quarter; University of Virginia, residents no tuition,

a University fee of $10, non-resident $135 tuition, and $40 University fee.

Summarizing certain of the outstanding features of the situation then, we may say that for the student who is a citizen in one of a few states where state universities are conducted with practically free tuition, the two-year collegiate preparation for law would involve little more than living expenses for this period. For students elsewhere the tuition charges will run from a little less than $50 a year to $300 a year, depending on the institution. How small are the chances for any given individual to secure scholarships to meet these charges has already been indicated and the cost of living has naturally to be added in.

In considering law school fees for the present purpose, if will be convenient to disregard the amount of collegiate work required for entrance, although no schools are here mentioned which do not demand at least two years of such work. But evidently the total cost to the student who goes to a law school like Harvard, where he must have completed a full collegiate course before entrance, will ordinarily involve two additional years of college fees over and above those required in schools, which like some of the state university law schools, require but the two years of college work. An analysis of the economic status of such a group of students as those in the Harvard Law School might well throw valuable light upon our problem, but the writer has had no access to such data and does not know how fully they may have been collected.

At the University of Pennsylvania the fee is $250 a year; at Yale, Harvard, Columbia, Catholic University, $200; at Chicago, $195; at New York University, $180; at Emory, $160; at Cornell, Washington University, St. Louis, University of Cincinnati, $150; Georgetown University, $140; University of Virginia, $135 plus $40 incidental fee for both residents and non-residents, at Tulane, $115; at Michigan, for residents $105, for non-residents $125; at the University of Tennessee $100; University of Indiana, for residents $65 a year, non-residents $100 a year; Ohio State University, $60; University of Colorado, $60 for residents, $90 for non-residents; University of Washington, $45 for residents, $150 for non-residents; University of Wisconsin free to residents,

for non-residents $100 a year; University of California, $75 to residents, non-resident $200 a year.

Living expenses beyond tuition are estimated by college authorities at figures which vary somewhat, but on the whole show a disposition to average about three times the cost of tuition, running above this ratio where the tuitions are less than $100 and running slightly below it where they are $200 or more. As is well understood by all persons familiar with college conditions, such estimates are inevitably arbitrary and they probably tend to be scaled considerably below the median. Taken as a whole, the variation in tuition charges is probably no greater than the variation in the actual "cost of life" in the several communities involved, so that, measured in dollars and cents, the institutions with higher tuition charges carry with them for the average student correspondingly higher general living charges. This is, of course, in no literal sense true for every student, for in the great cities where living expenses are generally high a man can, if he will, live very economically. In no case do these estimates of necessary expenses run above $1000 a year, but the average is undoubtedly well above $500, and many students spend much more than the higher figure.

Taking law schools as a whole, the scholarships available, which carry either full tuition or a large part of this tuition, are relatively few in number. At one institution at which there is an average attendance of about 500, there are at present 13 scholarships averaging about $240 apiece and the tuition charge is $200. Some of the scholarships there pay less than tuition. At another institution where the average attendance is 450, there are at present some 30 scholarships carrying full tuition and half a dozen others carrying smaller amounts. For the other schools from which I have been able to secure information, the number and value of the scholarships is very much less and quite a number have no such facilities at all.

It is difficult to compile statistics of an expensive or precise character in connection with scholarships available for the two required years of college work postulated in this entire discussion, because there is nothing to prevent a student from completing this collegiate work in an institution other than that whose

law school he proposes to attend. Indeed this situation is very frequently represented. To gather the relevant data for all the American colleges is possible, but the task is tedious and the present writer felt no obligation to undertake it. The institutions which report the largest percentage of scholarships available to undergraduate students in no case reach one-fourth of the total student body and in most instances fall far below this. The money value in terms of full tuition probably in no case exceeds 10 per cent of the entire tuition charges for the student body. Accordingly while it is true that in some institutions there are considerable numbers of scholarships available for undergraduate students, and in three or four law schools an appreciable but much smaller number, the total of these forms of outright financial assistance is not very large considered either relatively or absolutely.

A few institutions have in recent years gone far to develop loan fund systems. The growth of these funds is in many institutions going on very rapidly and the system bids fair to do much to solve the problem of the impecunious student who is willing to obligate himself in this way, for many of the funds are so conducted as to bear interest and more than maintain themselves. It also goes without saying that every educational institution nowadays attempts to assist its students to find means for profitable employment, if they so desire. But the demands of the better professional schools are now so severe that it is very difficult for a student to carry the normal work of a full-time law school or medical school and still find either time or strength to earn money. Moreover the local opportunities for work are in many cases quite limited.

In connection with this entire problem, I think it would be a fatal mistake to fail to take cognizance of tendencies now rapidly developing which, if they be successful in reaching their goal, will result in the reduction by at least two full years of the time now required for the average student to secure the bachelor's degree. Although the practice varies somewhat in different parts of the country, the standard educational procedure of the present time may be fairly regarded as involving eight years of grammar school training, four years of high school or academy, and four

years of college. The distribution of the first 12 years is now undergoing some change in certain regions, where the junior high school movement is being developed, but the formulation offered is substantially correct for a large part of the country. Careful studies of the situation backed by experimental demonstration make it clear that one full year can, with no great difficulty at all, be gained in the grammar school and high school combined, and there is every reason to believe that another year can be gained between the high school and the college. It must not be supposed that such shortening of the period of work implies a cheapening of the quality of the product. Quite the contrary is, in point of fact, likely to be the case. The savings represent a reorganization of the curriculum designed to cut out needless duplication, to eliminate topics which contribute nothing essential to intellectual discipline or breadth of information, and, through the utilization of improved methods, to secure better results in less time. If these improvements be adopted, together with a practical revision of educational methods such as will permit students to travel at rates adjusted to their several capacities, there will certainly be no difficulty at all in the case of the abler half of the school classes in achieving such savings of time as I have mentioned. Indeed there is probably no reason why unusually able boys should not make much more rapid progress than even this program provides.

There is very considerable inertia to be overcome before this type of plan can be put in operation and there are appreciable influences, especially in the private preparatory schools, which are positively antagonistic, but it seems hardly conceivable that in the long run our people will be willing to allow American youth who are the beneficiaries of the most ambitious program of public education ever attempted, to fall behind the better trained students in England and the Continent by two full years or thereabouts as is now in general the case. In our older communities, and in our more venerable educational institutions, changes of this kind may be expected to come about somewhat slowly, for the whole social life of these institutions and particularly their frequently hypertrophied athletics are set up to cater to young men of the present average age or older, rather

than to younger boys. So much in this the case, that parents frequently withdraw precocious boys for a year or two in order that they may not, as the phrase goes, "enter college too young." All the statistical evidence, from the point of view of sheer intellectual accomplishment, indicates that the younger boys on the average do distinctly better work than their older mates, so that except from the point of view of these social and athletic interests, there could hardly be made out a good case for the present late entrance upon collegiate and professional work. In those strata of the community from which come the students now in the short-time law schools, in those which require only high school preparation and in those which give their work in the late afternoon and evening, there will undoubtedly be a warm welcome extended to any additional developments which, while improving the quality of the training given, succeed in cutting down by one or two years the time consumed in securing it. In the long run, therefore, it seems highly probable that students who desire thus to expedite their professional education may look forward to a curtailment of both the time and expense connected with at least two years of their general training. In the measure in which this may prove to be the case, the question of scholarships and financial aids will naturally assume a somewhat smaller importance. At present, however, it must be admitted that this movement at once to improve and abbreviate the pre-professional training has not proceeded so far as essentially to affect the general situation throughout the country.

In conclusion it should be repeated that all college and universities are earnestly striving to make it possible for the man of fine character and substantial ability to secure collegiate training no matter what his economic circumstances. But it would be fatuous to assume that they have as yet at all fully succeeded in solving this problem. At the moment they are certainly not in a position to assure material assistance either in the form of loans, scholarships or even opportunities to earn money, to any largely increased number of students. The strong, earnest student can always pull through, but the task is often far from easy.

Chairman Taft:

Gentlemen, you have heard the formal and prepared addresses and the subject is now open for discussion.

Harlan F. Stone, of New York:

Mr. Chairman: As I listened to that address by Dr. Angell, there was one suggestion in it that interested me very much, and that was the question raised as to the probable effect upon the membership of law schools if there was an increase of the standard so that men entering law schools would be required to have two years in college. I thought there was a suggestion, by implication at any rate, that it would cut down very much the number of students in the schools. I think in that connection that it is important for us to recall what the experience has been in those law schools of the country which have actually raised their standards to two years of college or more. While it might have been expected that the number of students attending those schools would have been cut down, I think I am correct in saying that the actual experience has been in every case where that has occurred that after a reasonable time within which the new standards are put into effect, the actual number of students attending those schools has increased. I have no doubt in my own mind, based upon observation that I have made, that while possibly the total number of students seeking the legal profession would not increase—I should hope not, in view of the character of a great many of the men who come from those schools and now seek admission to the Bar—my judgment would be that the schools promptly adopting that standard would have an actual increase in attendance within a reasonable time.

Then there was one other thought that occurred to me about the last address. That is the suggestion that a statistical investigation of the student body of the large schools requiring some college training would be worth while. Of course, I cannot speak about schools other than the one in which I am personally interested. We now have about 700 students in that school. I have no hesitation whatever in saying that the student body is a representative body. Its students are drawn from every class of society, perhaps if any one in our school has not a fair representation it is the idle rich, because after all that particular class

in the community is not attracted to the laborious work of a law school. But every other class in the community is represented. I think, too, that a more intimate study of the amount of scholarship aid available in that professional school would be of interest. In our own school we distributed $12,000 in scholarship aid. That is sufficient to maintain 60 students and pay their tuition in full. Many of them, however, do not require to have their tuition paid in full, all that is needed is some assistance. Our actual experience has been that the scholarship fund and the additional amount of money which we are able to put in scholarship funds, that is money that is to be repaid at some convenient time, loan fund, has been sufficient to meet the needs of the men of slender resources. I should say fully one-third of our students maintain themselves fully or in part by summer occupation, tutoring during the year, and availing themselves of the scholarship aid and loan funds which are available while they are students.

Then there is one other suggestion and I have finished. I think it would be interesting, since statistics show that a very great percentage of the men who go to the colleges come from urban communities, to see how far the urban universities of the country afford opportunity for the student to get a liberal education equivalent to two years of college by attendance at night or late in the afternoon while he is engaged in gainful occupations. For instance, Columbia University has several thousand of such students. It is possible for a man, quite apart from the regular college work during the day, to secure complete college education by attending at night after he has had his day's occupation. So that I think all these things I have mentioned are very hopeful indications that if the time is not already here it very soon will be here when the man of real enterprise, the man who is really worth while, can easily fulfill these proposed requirements.

William B. Hale, of Illinois:

Mr. Chairman: We have prepared statistics in Illinois on two phases of this subject. We are interested there to find out how democratic the Bar is today in view of those who are coming to the Bar. We are preparing even much more elaborate statistics than these. The rest of the statistics, however, are not ready at this time. We will be able to show in the figures we are prepar-

ing how many coming to the Bar today have had college education and how many have had high school education and how they succeed in passing the Bar examination, and so forth.

I would like to read a few figures which are in response to a questionnaire which we sent to the last 1900 men and women who came to the Illinois Bar, that is, those who came in the last two years or a little more. Out of these 1900, 1064 replied, more or less, some replying to some questions and some to others. About a thousand therefore replied. Many went astray because of changed address.

Out of those who replied, 1064 in number, they were asked five questions, as to whether they were born in the United States, where their parents were born, whether they supported themselves in law school and supported others in law school. These are the statistics which I will now read to you.

Our of 1064 students, 942 were born in the United States, and 122 were themselves born abroad. Of the 1064, 602 of their fathers were born in the United States and 497 of their fathers were born abroad. That is to say, 45 per cent of the men who have come to the Bar of Illinois in the last two years have been descendants of parents who were born abroad. One thousand and eighty-three replied to the question of whether they wholly supported themselves while they studied law. Of these 644 wholly supported themselves while they studied law. That is 60 per cent earned their own living while they studied law. Twenty-six per cent partially supported themselves while they studied law, that is, 86 per cent of all those who have come to the Bar of Illinois in the last two years have either wholly or partially supported themselves during their law course. Only 14 per cent not at all. Seventeen per cent wholly supported someone besides themselves at the same time that they were studying law.

We will continue these statistical studies further in Illinois for the education of our Bar, but I am inclined to think that the figures which we already have show that our basis is today sufficiently democratic, and that we do not need to be afraid that the young man from foreign countries and those from our own land who have not had sufficient education will cease to force

themselves to the Bar, because that is what they are doing today, rather than be called to the Bar.

Julius Henry Cohen, of New York:

While the words of President Angell are still ringing in our ears, there is one set of data or information that I think ought to be brought home to the Conference.

It so chances that I have been the Chairman of the Committee on Unlawful Practice of the Law of the New York Country Lawyers' Association for some years. That committee functions in the direction of eliminating persons and corporations who are not authorized to practice law. Now we have had to meet the popular criticism that has come from such a movement. The popular criticism is that we are seeking to maintain a monopoly of the practice of law. We have met that criticism by pointing out that the legal profession was exclusively privileged to give legal advice and to represent the people in court because of the necessity for protecting the community. In that connection it is interesting to observe that the head of the Regents of the New York University, Chester Reid, the other day said that a man can walk into a dentist's in New York today with a reasonable certainty that the education of the dentist is not being acquired by the operation upon his jaw. Today dentists must get an education before they can treat your teeth. The community does not realize that lawyers prosper more through the malpractices of the ignorant than they do through the sound legal advice that is given by competent men. Just as surgeons have more business when there are dentists who operate upon teeth who do not understand their job. We know, though the public does not realize it, that it takes some skill to draw a legal document and to draw a will, and yet we have such distinguished writers as Graham Wallace and Mr. Wells suggesting that the lawyers are at fault because they have not prepared forms that any person can fill in and thus economize rather than require laymen to go to a lawyer. Now we have succeeded in convincing the public, I think of New York County at least, and possibly the state, that it requires training and skill and knowledge to draw a legal instrument. And so when we prosecute notaries public we have the support of the labor department of the state and of those who

are interested in protecting the foreign born. But we have a much more difficult job when we start with the corporations, with the title companies and the trust companies. No less a distinguished writer than Dr. Frank Crane the other day in an editorial advertised the trust companies without compensation by saying that there are so many incompetent lawyers drawing wills and so many bad wills drawn that laymen generally now prefer to go to the trust companies to have their wills drawn. Now that has its moral at this time in our consideration of this problem, and that moral is the one suggested in the very apt phrase of Dr. Angell, that when you are driving the devil out of one door you had better look after the other doors. We say to the public that the trust companies ought not to be permitted to draw wills, that the attorneys for the trustee are not competent from a moral point of view to represent the donor of the property. We say that each party having an interest in that will must be specially represented and advised, and that therefore the employee of the trust company, in occupying that fiduciary relationship to the donor of the property, cannot carry out the obligations of the lawyers. But what shall we say then to the public when it appears that there are incompetent lawyers and that the license to practice law is no guarantee of that efficiency and skill which we say is requisite for the protection of the community, and that therefore unlicensed practictioners should be sent to jail? What shall we say of our responsibility when we undertake to close the door to the devils who are practicing as representatives of title companies and trust companies and the little devils on the East Side who are notaries public, and let in all these devils who are incompetent to advise the poor and who are drawing instruments that make more litigation for those who know how to handle litigation? In other words, gentlemen, it cannot go on with your protest to the community against the unlawful practice of the law, against the unlawful practitioner of the law, without at the same time performing the duty of the Bar to see that those who are licensed are competent to take care of the community. In other words, if you are driving the devil out of one door because you say he has no right to give advice and that he has not had a license to give advice, then you must not

let in at the other door the fellow who has the license but who is sometimes less competent to give advice.

Hampton L. Carson, of Pennsylvania:

The whole philosophy of the matter seems to be summed up in a case which occurred in the sixth century. I came across this case in studying the legal relations of the surgeon. It is a case which occurred in the sixth century, and it seems to me that the judge who sat in the trial of that case administered the most practical remedy for an evil which could be suggested. Recollection of the case came to my mind by virtue of Mr. Cohen's reference to the dentists. It happened that a man with an aching tooth went to a veterinary who was half barber and half blacksmith, and in the extraction of the tooth the defendant broke the plaintiff's jaw, and when the case came for trial, the trial judge non-suited the plaintiff on the ground of contributory negligence, that the plaintiff must have been an ass to have employed such a man for such a purpose.

John Lowell, of Massachusetts:

Mr. Chairman, having been treasurer of the Harvard Loan Fund for 25 years, although I cannot go back quite to the Sixth Century, I am convinced that at Harvard at any rate we can help the poor students in their efforts to obtain a two years' college course. We have administered that fund with success at Harvard, and I feel sure that the same thing applies with reference to many other colleges. I may have something to say later on the general subject, but I want to simply make the point that at Harvard we can help the poor deserving boy to secure two years' training at college.

Thomas J. O'Donnell, of Colorado:

Mr. Chairman, if I read correctly the remarks of the Chief Justice, he said it did not make any difference what the result of the law school was as to whether justice or injustice was arrived at provided the man had a hearing, and he said further that all that was necessary in order to get in court and stay in court was to write a letter to the judge. Now I should like to ask, in view of that remark, which of course we must accept as *ex cathedra*,

why any higher qualification in a member of the Bar should be necessary than the ability to read and write.

Chairman Taft:

They said in Westminster before they had reports, when a man cited a case it was always on all fours with the case at Bar. I should like to refer to the report or have profert of the speech before I could admit the statement.

John Bell Keeble, of Tennessee:

Mr. Chairman and gentlemen: I do not come from a state where they seem to have as many wicked lawyers as evidently they have in New York, if we believe and accept at their face value the statements made today. At the same time I come from a state with which the Chairman is more or less familiar and which has a rather enviable reputation on the circuit; I come from the state that contributed three justices to your court, Mr. Chairman, in the last 60 or 70 years. Now I think we are getting away from what seems to me to be the crucial question in these resolutions.

There is not any lawyer active today who claims any sort of position in the community that would not say that the Bar could be elevated and should be elevated. There is not a lawyer, I take it, who would not be inclined to admit, even if he lived in a rural community, that if he had two years of college training he probably would have been a wiser and abler lawyer, notwithstanding the fact that my observation of college life today is that it very frequently mars as well as often makes a man, but that is not the practical proposition. Governor Hadley referred to the statement that Mr. Harriman made to Mr. Roosevelt, "We are practical men." Now, let us look at this question we have to act upon here. You have all settled it so far as the American Bar Association is concerned. Then you ask us who come from Tennessee and other states in the union to pledge our support to go back and ask the legislature to pass a law which says that no man shall be admitted to the Bar unless he has graduated at a law school that has a three-year course and a requirement for two years in academic work, notwithstanding the fact that such a rule would disqualify every member of the Supreme Court of the United States, every member of the Supreme Court of the

State of Tennessee, and practically 90 per cent of the American Bar Association.

Now to go before the Tennessee legislature, which is just as fair in average intelligence and ability as legislatures generally throughout this country, and urge the adoption of a statute like that, would be simply folly. The state of Tennessee is not going to pass any such legislation as that, and I take it that there are many states in the United States that are not going to pass any such legislation as that.

Now I say the trouble with this attitude is instead of stimulating and guiding and persuading men to gradually attain the standards of the Bar they should attain, you place a Bar sinister upon every state that does not follow this signal.

It is a practical question. Even if we thought it were right it could not be done. Not only that, but if we asked the state legislature afterwards, if we said to them, well, if you won't do that, then do this, we would be in the position of having lost influence with them, and it would set the cause of legal education in our section backward instead of forward.

Now it is useless to say that a college should have this requirement for admission. I am prepared to say that those colleges that draw their students from sections of the country that can stand that kind of a requirement ought to have it, but when you come to a section of the country where colleges that have sought to elevate the standard of legal education and have required certain education, have set certain standards, for instance have in some cases required one year's academic work, to endeavor now to carry out this plan of two years' requirements, I say would be useless.

But you say that if the college cannot get that type of man it ought to close its law school. Suppose it did. It would drive that student body not to Harvard, not to Yale, but it would drive them to the night school and the one year schools and the schools that give inferior instruction, and the young men, instead of getting as good as they can in that situation, would be driven somewhere else. They would not come east or go west or enter the institutions that they could find with those standards. Only a few years ago a one year course was regarded as a very good standard everywhere. We cannot go back to the legislature, then.

with this demand, as I say. Let the law schools that can elevate their standard, elevate it just a little bit above their people all the time, just a little bit higher, but never so high that it cannot be reached in the rack by the average man of character and capacity. I will say this, that I could not honestly say that no man should be admitted to practice law in the State of Tennessee, anywhere in the State of Tennessee, unless he had two years of academic work and three years of law work, because I know that in 50 per cent at least of the county seats in my state the practice there does not call for any such learning or attainments, and if a man had that much education, there is not one man out of a hundred that would ever go back and live with father and mother and practice law with the boys among whom he was reared. He would go to the city.

And I want to say this, that I can go out in the mountain sections of the State of Tennessee today and you won't find any law cases there except hog cases and ejectment cases, but I can find a lawyer there who can try an ejectment case according to Tennessee law, who can run off of his feet any of the distinguished lawyers we have heard speak here this morning, not even excepting the distinguished nestor of the American Bar.

To go back to Tennessee, to the legislature there, and say that in order to practice law, in order to try an ejectment case, a man had to have two years academic work and three years law work in college, why, they would think I had lost my mind, and they would have a right to think so.

I do not wish to be misunderstood about this question of legal education. I have been an active college professor myself about 20 years in connection with the law school, and I have had to make a living practicing law on the side. At Vanderbilt University we have made a good strong fight to elevate the standards for admission to the Bar and the curriculum and the requirements for graduation, and we are keeping it up, and I believe in it; but I do say this: that I cannot look back upon the history of the Bar of my own state and honestly say that the only road to achievement and position at the Bar must be two years of academic work at some diploma concern and three years in some law school.

I know that Tennessee has given its fair proportion of great lawyers, and it is true today that the average lawyer at the Bar

at Nashville, where I live, the average of college men is far greater than it was when I came to the Bar; but I regret to say, when I consider the fact, that to be a successful lawyer requires not only attainments, but something else, not only character but something else. For the practice of law is an art as well as a science, and no man ever becomes a great lawyer until he has learned it in the school of experience—you cannot learn to try cases anywhere except by trying them. When I look back at members of the Bar of Cincinnati who practiced many, many times before you, Mr. Chairman, when you were on that Bench—such men as Edward Baxter and men of his stamp—we must remember that not one of them had a year's experience in any college or law school; and when I know that there is no man at the Bar today who could hold his own with any one of those men before trial or appellate courts of the state, I cannot say to the young men of Tennessee: This is the only road now for you to get to the Bar, because I know it is not.

We do not suffer much from lack of character among our lawyers, except among our educated lawyers. The Bar has lost the confidence of the people in many ways, but the educated members of the Bar have contributed their part toward losing the confidence of the public. Down in my country the great reason why the Bar does not exercise the same influence in public affairs that it used to do is because too often many of us—and I put myself in that class because I am subject to that criticism—have been retained for many years by large corporate interests, and whether because we feel embarrassed to express ourselves or fear it might react upon our clients, or whether we are embarrassed because we fear our sincerity might be questioned, we have lost our hold on the imagination of the public, not because we do not know law, but because we have withdrawn ourselves from that active touch with the community that those great lights of the law of ancient days had, men who took no regular retainer from anyone, but who were ready as free lances to serve any clients. Down in our part of the country the people have lost confidence in most of the lawyers, and in fact I have heard it whispered that that same situation is more or less true in the City of New York.

I. Maurice Wormser, of New York:

Mr. Chairman: My friend's oratory I cannot equal, but my friend's argument can be readily answered. My friend says that in Tennessee educated lawyers are the crooked ones. If so, it would logically follow that all education in Tennessee should be abolished. Evidently the laws of nature there are different from what they are in other parts of the country. But I do not believe my friend's statement that only the educated lawyers in Tennessee are the crooked ones is accurate. In New York State, and more particularly in New York City, our experience has been exactly the reverse. I can lay claim to being familiar with the recent records of the New York courts. My cross in life is to have to read these records, and the records of our appellate divisions show almost with uniformity that it is the uneducated, the illiterate, and, more particularly, the immigrant lawyer, the lawyer from a foreign country or son of parents from a foreign country, with whom we have difficulty. I teach in a law school in New York City which does not require either a college degree or two years of college for entrance, but I am absolutely convinced from my experience there—and I think it would be voicing the sentiment of practically our entire faculty—that the standard would unquestionably be raised, the men who graduate would be better, and the Bar in general would be elevated if these requirements were put through.

You must remember one thing from a practical standpoint. Let us be practical here and not talk ideals. There are some schools which require less than the standard which ought to exist. The standard which ought to exist, with the greatest respect, I think goes considerably beyond these proposed requirements. With education as it is today, with the doors open so that I, although my mother was a widow with hardly a dollar to her name, due to family misfortunes, could go through Columbia College and go through Columbia Law School and have my three square meals every day—and I do not lay claim to being other than the average; if we can do that, if the doors of education are open to us today, is it not the most stupid, the most foolish, the most assinine thing in the world to say that we are going to require that which every one of us knows is

the correct and the proper requirement, a college education today for the study of the law?

Now, gentlemen, if Abraham Lincoln were alive today—and I taught three years within a few miles of where Lincoln lived, and any of the people living there now who knew Lincoln could confirm this—if Lincoln were living today he would have a college education. You can bet your life on that, that Lincoln today would have had a college education. He would have realized its value, he would have known its worth. The poor man can get an education today if he has the ambition, if he has the desire for it, if he has the perseverance to get it.

Coming back to my theme, some schools require less than what ought to be the standard of college education. It ought to be a full college course. That is where we are coming to ultimately. This two-year proposition, with the greatest respect, is only a sop. If we are to have an intellectual aristocracy in this country—and the Bar, I say, should be that aristocracy in this country—there ought to be an intellectual aristocracy in every country—then we must require a college education as a prerequisite for admission to the practice of the law. If some schools do not require what ought to be required, we must raise those requirements by compelling them to meet the standards. If we do not compel them to meet the standard, if only one school has a standard lower than what should be required, a certain class of students will flock to that school, and that school will have to turn away students. I could cite an illustration off hand, but I do not want to go into individualities or personalities. Not long age the Columbia Law School, the best and greatest law school in New York, was suffering from a complication which it should not have met with. It was unreasonable to expect it to require the standard it otherwise would have required by reason of the fact of the low standard of a certain competitor. Now, then, how are we going to raise the standard? We can raise our standards only in one way, by having our legislature pass an act that two years at college shall be required for admission to the study of the law.

I would like to see it go beyond that, but at the present moment I fear it is not an opportune time. We must do that. Unless we do it the Bar is going to be swamped. We have to be

saved from ourselves. The situation in the great cities is intolerable. My friend, with great sincerity, and with undoubted personal conviction, for which I have the greatest respect, spoke of the situation in his state. But that does not represent the United States. We must look out for New York, we must look out for Boston, for Chicago, for Philadelphia. Those are the places where the great amount of law practice is carried on, and those are the places where we must raise the standard of the Bar. Otherwise, gentlemen, our profession is going to be discredited.

I have the good fortune, and some times I feel the misfortune, of editing the New York Law Journal. Those of you who know what that means will realize what I have to go through. I have to go through briefs of counsel, I have to read notes from lawyers, I have to read through their arguments, I have to see really what they do day after day. It is a position in many ways that calls for an amount of labor and toil that no one man ought to have to do. Gentlemen, it is my sincere conviction and belief, and speaking as man to man, that we have to raise the standards, and unless we raise the standards in New York—I am going to speak plainly—the Bar is going to go to hell.

Mr. Justice Benedict, of Brooklyn, a man of the widest experience, and of the highest culture, a democat if there ever was one, used much stronger language to me last Saturday night, and it was so strong that I do not like to repeat it in this room, and he is not a college graduate.

Now, that argument cannot be met. There is no answer.

One word in conclusion. I believe if we put in the two-year requirement, we should do one thing which nobody here today has mentioned, and which, with great respect for the committee, I believe is absolutely necessary. I think that the two-year requirement should specify certain subjects, among others, first and foremost, rhetoric. Let us have men able to read, write and talk the English language—not Bohemian, not Gaelic, not Yiddish, but English. That is the first and foremost requirement. Second, a study of English and American history, more particularly English constitutional history and American constitutional history. How absurd it is, gentlemen, to let men study the law without a knowledge of Magna Charta, without a knowl-

edge of the Bill of Rights, without a knowledge in this country of the decisions of Marshall. Is it not ridiculous to permit men to enter law schools and to talk about the case of Dartmouth College versus Woodward, for example, without a knowledge of the constitutional history upon which that decision was founded? There are students who talk about that case and do not know that there was a Federalist party. That is exactly what I met with last Tuesday night at my law school. The student had never heard of the Federalist party, he did not even know what it stood for, he did not know that the whole Dartmouth College case grew out of the Federalist party quarrel in New Hampshire. Now that is serious.

A third thing we should require is a knowledge of logic. It is ridiculous to permit a boy to study law who does not know the difference between a major premise and a minor premise, who has never heard of a syllogism. Are we going to permit such men to make our laws for us? Could there be anything more ridiculous or anything more absurd than that? If so, I have never heard of it.

One last requirement—and on this I expect to hear some opposition and plenty of criticism. I am still a believer in the classics to this extent. I do not think any man should be allowed to study law who does not know what *reductio ad absurdum* means and who has not the slightest knowledge of the difference between a Latin term and a Russian or Italian or Bohemian term.

I am going to illustrate that. The other day I said to a student in one of my classes, in connection with a case of incorporation, that one corporation was the *alter ego* of the other. He said he did not know what that meant, he wore a look of bewilderment and wonder. I said "Did you ever hear of the two Dolly sisters?" Oh, yes, oh, yes, he had heard of them. I find they are all familiar with such modern references, especially if they have to do with ladies singing in a cabaret. I said to him "I have heard and understand on information and belief that they look alike. That is the explanation of *alter ego*. Or, in other words," I said, "it is just like Goldberg's two gentlemen in his cartoon, Ike and Mike, they look alike."

Now, is not that humiliating, that a law professor should have to make an explanation like that?

I am not talking for amusement, I am talking to try to get you to help me. Here is a poor, long suffering, overworked law teacher who asks you to give him as a teacher and as practicing lawyer that alone which can be of help. Please raise the standard. If the standard is not raised by us, the profession of the law in this country will become a mockery and a disgrace, instead of being what it should be, a beacon, as Mathew Arnold said, of sweetness and of light, instead of being a profession which will represent the aristocracy of this land.

Thomas Dawson, of Maryland:

I had not thought to enter into this discussion, but when the democracy, the fundamental form of this government is in doubt and has to be changed by the Bar Association of America, it strikes me we ought to take some notice.

Now to the subject. I fully agree with the effort and the purpose of the effort of this Association in raising the standard of the membership of the Bar. It cannot be too high. Let the examinations of the student and the preparation of the student for the Bar, his knowledge of the law, be as searching as it may, but when you come to set an arbitary standard of mere educational qualifications there is some doubt in my mind that should give us pause. I say this because that may work both ways. Much has been said here, and aptly said, about the fundamental requirement of absolute integrity and unassailable good character in the members of the Bar who are to be trusted in absolute confidence with the life and liberty, the rights and the property, of their clients. I tell you, sir, the trust is enormous, and the qualifications of that man should be beyond peradventure. But will a mere educational qualification solve that or even aid that proposition? Suppose a man is bad and has a bad character and gets to the Bar. Why, the more education he has the more dangerous he is. Do you get anywhere on that?

Now, then, if that examination, if your requirements of his knowledge of the law are searching and complete, you must assume some things, you must know that that man in meeting those qualifications has some education, and I submit sufficient educa-

tion, it does not matter and it ought not to concern this great institution where or how he got that education, that qualification.

Now, another thing. I think there is something un-American in this movement, though not so intended, of course, and I do not draw the deduction from what has just been said about the establishment of an aristocracy. I, sir, like the rest of you am an American. I love the American institutions, and one of the most potent American institutions is the self-made man. I would warn you, then, to go slowly when you set an arbitrary standard that would proscribe his field of action and usefulness.

There is another American institution, that is, the American poor boy, with large natural endowments. Do not shut the gates of opportunity to such a man. Now, sir, the self-made man in America is an American product, and he is the man that has made this country what it is. Eliminate from American history the work of the self-made man and that history would not be worth the paper it is written on or the time that it would take to read it. You know, sir, and I know, men who have no college equipment who are going forward in the world's work, who are doing things, accomplishing things, and plenty of them have from one to half a boat load of college graduates in their employ, and glad of the job, and they themselves never saw the inside of a college. You and I have seen along the highway of life, the most dismal wrecks and failures, whose pockets, if you delved deep enough into them, would show not only a two years' college certificate, but a full course and a diploma. But is that any guarantee? I submit it is not.

Come out to the door for a moment and look across the Mall to that beautiful pile of chiseled granite raising its head to the sky, almost to the clouds, commemorating the life work and history, the contribution to history, of the greatest hero the world ever produced and the greatest benefactor of mankind, the Father of his Country. When he took in surrender the sword from the red-coated Britisher, did he flaunt in his face a two year certificate or a full course certificate of college education, that that life work of his might be done? Walk with me a little further, to the end of the Mall, and look at that beautiful tribute there about to be dedicated to the memory of the immortal

Lincoln. Had he as much even as a two weeks' certificate of attendance in a public school to his credit?

Now, sir, in your profession and your position in life I know you fully appreciate that great God-given paper, the Constitution of the United States. But what has made that of such efficacy and what has made it a world chart and guide more than anything else than the interpretation given to it by John Marshall? Whoever heard of John Marshall putting his nose inside of a college, or, for that matter, having a three weeks' course at school?

If Lincoln were living, it has been said, he would have had his college education, and you, I think, Mr. Chairman, in the best spirit and purpose, said Lincoln would have had his college preparation; but you know the old adage, that the last straw breaks the camel's back. Had Lincoln been told, you must have two years, young man, in some college, miles and miles away, or you cannot be a lawyer, then the life work and contribution to history of Mr. Lincoln would not be our heritage today and this would not be the great country that it is.

I submit, sir, that without the work of Lincoln, without the work of Washington, you would not be sitting in free America, that without Washington's work, done without a college training, there would be a red-coat back of you, perhaps, taking taxes out of your pocket.

Now, sir, I do not know that I am called upon to say anything about the outlying districts. There are plenty of representatives here from those districts. This country is not one whit better today than it was when Washington put it on the map and the proportion of colleges to the population of the country is perhaps about the same. I have no statistics on that. I know we have grown greatly in population, but still there are outlying districts where the poor American boy of great endowments is yearning for a fair chance to do what his forebears did. Is this America? Is it a free country, and has every man a fair chance? If he has, for heaven's sake do not put an arbitrary requirement of this nature on him, when the only effect of it might be to proscribe his opportunities.

I therefore, Mr. Chairman, have no speech to make, but I want to raise my voice in modest protest against the passage of an

arbitrary standard that would shut the gates of opportunity on the poor boy who has great natural endowments, proscribe the usefulness and field of a self-made man, and by the same standard keep John Marshall off the Bench and Abraham Lincoln from the Bar.

J. Nelson Frierson, of South Carolina.

Mr. Chairman: I represent both the State Bar Association as a practicing attorney and the Law School of the University of South Carolina. The State of South Carolina over one hundred years ago required men to study law three years. Just because of the vicissitudes in the history of that state 12 years ago they did not require them to study law for any length of time, and only in 1910 did we succeed in passing a statute requiring them to study law for two years. Now, Mr. Chairman, we have in that state as fine a body of young men, native Americans, as can be found in any state of the union. We are not troubled with the problem of having a foreign element to deal with, as is New York and some other states. While we have a fine body of native young Americans, we are as poor in physical resources as any part of this country. It is difficult for many of our finest young men to get through with their law course. One of the finest young men in my law school last year, a most brilliant fellow, in order to get through, had to work as night clerk, and going to lectures without having had sufficient sleep, and in spite of that handicap he was a double star man in his class. It does not seem to me that there is any logic whatever in this argument about the poor boy being shut out. It seems to me that the argument that rights of the individual are superior to rights of society today is not entitled to any notice whatever. Society is entitled to be protected against the inefficient and incompetent lawyer. I think the conditions in South Carolina are not much different from what they are in Tennessee. I know that the boll weevil has been eating up everything down there, they say it even eats up the Ford cars over night. Yet in spite of that last year we opened up a three-year course in law, after all these years of waiting. Knowing the financial conditions existing, we felt sure that the combination would cut down the numbers that would come to the law school, but we were mistaken, for instead of that situation, we

had the largest number of pupils enrolled that we had ever had. And so I say a high standard of requirement does not keep the worthy individual who has the proper ambition from fighting his way to the front. In the past we have been going along in kind of a slipshod way, but we have managed to survive, and there is no reason why we should not try to benefit, no reason why we should stand still and let well enough alone when it is really not well enough. Talking about John Marshall and Abraham Lincoln and those great men of the past, those men who lived at a time when education was not so available or cheap, it is unthinkable to believe that if those men had lived in a day like this, they would not have been college men. Take James L. Pettigrew, the man after whom our law building is named, and who was perhaps the greatest common law lawyer our state has produced. There was no law school for him to go to, and yet he learned law, and then in turn he was a law school for many young men. A great many fine lawyers graduated from his office. There is no such opportunity for that sort of thing today. So I say it is time we took this further step. It is not something we can expect to get next year or even the year after, perhaps it is going to be a long time before we get it and a hard fight, but this is an ideal towards which we should work.

Rowland Taylor, of Idaho:

I am not so fortunate as the gentleman from Tennessee. I cannot say what Idaho will do or will not do, but I do know this, that we are a young state and try to be progressive. We have all kinds of people in our state, but we realize that we must have the best in every line. About 80 per cent of the members of our legislature are farmers, and I believe those farmers want the best obtainable in the line of lawyers, and I believe that they will make some provision to take care of us in our state university if we raise this requirement.

What I arose for in particular was this. It has been emphasized all the afternoon that we must not make arbitrary requirements, and one gentleman from the platform said that it could not be done in an institution which used the state funds. I want to say now that there is in practically every state institution an

arbitrary requirement. If that were not true it would have to be abolished.

There is one more little thing, and that is we are not going back to unseat Washington or Lincoln or anybody else. We are not living in the past. We are going to live in the future, and I do not believe that any one of these gentlemen would go and get a witch doctor if he had a sick child, and so I ask what does he want to get a witch lawyer for?

John B. Sanborn, of Wisconsin:

The gentleman from Maryland, as well as some others, made the statement today, which we have heard before, and may hear again, that a Bar examination is an adequate test of the law student's preparation. Now, having been a Bar examiner myself, I think I know something about it. No Bar examination has ever been devised which cannot be passed by proper cramming in a very brief period. You do not have to know law, you only have to know what the examiners are going to ask and be prepared for it.

Mr. Dawson:

Would two years at a college be any guarantee that he had not crammed that?

Mr. Sanborn:

Certainly not. Now, of course, no one can contend that two years at college and three years at law school and the ability to pass a Bar examination is an absolute guarantee that a person is going to be a good lawyer, but it is a better guarantee than the law examination alone is.

W. A. Hayes, of Wisconsin:

It may be some encouragement to the advocates of the resolution if I call to the attention of the Conference a specific example of the benefits of adequate training. One week ago yesterday there became Chief Justice of the Supreme Court of Wisconsin a man who 50 years ago was a boy on a farm in Norway. He came with his parents to this country in 1870 or 1871 or 1872 and went to Iowa. He had in him definiteness of

purpose and tenacity of purpose. He insisted on getting a college training before entering upon the study of the law, and he got it. He was poor. He was a boy of 12 or 14 when he came to the country. He spoke a foreign language. He went to a new and unsettled section. But he acquired a college education, and he sits today as the Chief Justice of the Supreme Court of a great state. He never would be in that position if he had not procured that college training. He is perhaps today the most striking living example of the truth of the maxim that Mr. Root put forward this morning, that attendance at an American college for a substantial period of time was essential if one is to become imbued with the spirit that lies at the foundation of the institutions of the country. It is only there, in communion with men of high character, in touch with men of broad thinking, in daily contact with men of the highest ideals, mingling with the young and ambitious, it was only there that the man I refer to caught the spirit, that he gained the idea that little by little grew into that broad apprehension of American institutions which put him where he is today.

J. Zach Spearing, of Louisiana:

Mr. Chairman, it seems to me that in the discussion by those who are unfavorable to the resolutions they have overlooked the fact that we are dealing with present conditions and not with those that existed 50 or 60 years ago, or a century and a half ago. The world has progressed, we have made advances, and the law must keep up with the progress. We would hardly say that it was undignified for a President of this great country to ride in a handsome automobile because Thomas Jefferson walked to the inauguration. So we would hardly say that a man should not have a college course when it is within his grasp simply because 50 or 60 years ago the attainment of that object was denied him.

We must remember that these resolutions look to the present and to the future. There is no attempt, as I understand it, by the passage of these resolutions, to rule out of the legal profession or off of the Bench those who by reason of not having had an opportunity in the past have had to acquire their training and legal education without the schooling which it is proposed to

require. If so, many of us, the speaker among the number, who are now in the profession, would either be ruled out or never would have been admitted to practice.

The object of this is to raise the standard of the profession. Look around at the young men who are coming to the Bar in your various towns and cities. It is true as to my state, and I know it is true elsewhere, that the young man who is making progress, that is standing for high ideals, that has in a short space of time attained a prominence and standing at the Bar, is the man who has the higher education—because the higher education gives him the ideals and gives him the standing and gives him the training to reach in a comparatively short time the pinnacle and the standing that it has taken others a long time to attain. You look at those members of the profession that are debasing it, that are not up to the standard, who are petty-foggers, and you find that they are the men who have gone through a Bar examination before a committee, because they had not the educational qualifications to go to college, or they are men who have gone to a college of low standard and they have never been imbued with higher ideals of the profession.

Let us move with the world, let us progress, let us go forward and keep with the other professions—the medical, the dental, the clerical professions—and get into our profession the men of high ideals, men who have been helped by the higher education. It is not an unfailing standard, I do not understand that anybody claims that it is an infallible standard, but it helps, it does raise the standard, it is a better one than existed 25 or 30 or 50 years ago. And so we shall keep up with the march of progress, and we should say to the people who want to practice law now that they ought to rank relatively as high as did the men who were admitted 40 or 50 years ago.

Julius Henry Cohen, of New York:

In order that the delegates may appreciate just what they are doing, I would like to ask my friend from Tennessee a question, if he will be good enough to permit it.

Mr. Keeble:

I will answer it if I can.

Mr. Cohen:

Assuming that in some of the states of the union the situation is as serious as has been described and that it is absolutely essential to promptly raise the standard for admission to the Bar, and assuming that the conditions in your state are such that standards of education for practice there should not be so high, would you have the delegates from states that need the raising of the standards of preliminary education vote "yes" upon these recommendations even if we were convinced that in your state it might prove to be a hardship?

Mr. Keeble:

I will endeavor to answer the question. The State of Tennessee has never been so selfish as to demand that if a condition exists in a sister state as terrible as the gentleman from New York has made out, that the requirements that might apply to our state should be those applied in his state. I am perfectly willing, and I think from what you tell me, that whether it would save the state or not, it is worth trying, and I would join in a recommendation that it was the sense of this body that the State of New York be urged to adopt this law.

Mr. Cohen:

Would you have the standards of your state lowered to the standards of the greatest state in the union?

Mr. Keeble:

I think we would have to lower a great many standards in Tennessee to compare to the wickedness of some other states. I want to make myself clear. I do not disagree with the other gentlemen who have spoken as to the advantage that education is to a lawyer, but I know as a practical question that we cannot get a law like the one proposed through the legislature of Tennessee; and, secondly, I do not think it is required for every man that practices law in the State of Tennessee at the present time to have the preliminary education and training that is proposed. We have not got those problems down there that you gentlemen have in New York.

The Conference adjourned until 8.30 P. M.

EVENING SESSION.

Thursday, February 23, 1922, 8.30 P. M.

The meeting was called to order by Hampton L. Carson, of Pennsylvania.

Chairman Carson:

Ladies and gentlemen, the very agreeable duty has been assigned to me of occupying the Chair this evening. It is no part of the function of a presiding officer to make a speech or to endeavor to anticipate the substance of the paper to be presented by the speaker. But we have met under somewhat unusual circumstances. The medical and the legal professions are tonight drawn together in close, sympathetic intellectual touch.

I remember some 10 or 12 years ago when I was in London and exploring some of the old book stalls along Holywell Street, I happened to pick up a little pamphlet of about 70 pages printed in London in the year 1690, which was eight years after William Penn had obtained his charter for Pennsylvania, which pamphlet contained an account of "Ye Flourishing Province of Pennsylvania," at that time consisting almost exclusively of the town of Philadelphia, with some 2000 inhabitants. The writer, after speaking of the butchers and the bakers and the brewers and the jewelers and the masons and carpenters, said, "of doctors and of lawyers I shall say nothing, because the place is very peaceable and healthy." And then he added this pious prayer: "Long may we be preserved from the pestiferous drugs of the one and the abominable loquacity of the other."

It was in that happy association, Dr. Welch, that the history of Pennsylvania started.

Now William Penn, before he left England, appointed his cousin, William Crispin, to be the first Chief Justice of Pennsylvania, and Crispin started out in advance of the great proprietor. He was taken ill at sea, and according to an experience not entirely beyond our own knowledge, there being a doctor on board, the doctor happened to survive the patient and it was the doctor who became the first Chief Justice of Pennsylvania, Dr. Nicholas Moore. History tells us that he was promptly impeached for ignorance of the law and for arbitrary ways, and he

had to resign his office. It was a doctor who was the first Speaker of the Provincial House of Assembly in Philadelphia, Dr. Thomas Wynn, ancestor of Hugh Wynn, about whom Dr. Weir Mitchell wrote so charmingly in that celebrated novel. The doctors and the lawyers had a sort of neck and neck race for some time. Gradually the lawyers forged ahead owing to the circumstance that the doctors introduced the practice of phlebotomy. Everybody attacked by a fit or fever was copiously bled. And now, in some mysterious way, there is a popular impression that the gentle art of bleeding has passed from the medical to the legal profession. Of course that is a mere matter of superstition.

Well, doctor, we have been perplexed about certain problems of great consequence to ourselves, and that is a matter which affects our intellectual and our moral influence. We are endeavoring to lift the standard of the profession. You representing, sir, as you do, a body which has given special attention to the study of problems affecting medical education, have been kind enough to come here, sir, in order to address us on certain problems affecting medical education, and in that way give us useful suggestions of which we may reap the fruits.

I take great pleasure in introducing to you Dr. William H. Welch, Director of the Department of Hygiene and Public Health of The Johns Hopkins University.

Dr. William H. Welch, of Maryland:

Mr. Chairman and members of the Conference of the Bar Associations, ladies and gentlemen: I have assumed, Mr. Chairman, that the only occasion for my presence here tonight is to play the part of a consultant, on the assumption that you believe there are sufficient analogies between the problems of medical education and of legal education to raise at least a presumption that the experience of the medical profession in bringing about a very marked and very rapid improvement in medical education may have some helpful suggestions, if not really furnish an example to you in the solution of the problems which you face in legal education. And this belief I find not only expressed by you tonight, Mr. Chairman, but repeatedly implied and expressed in the writings in law journals and elsewhere on this general subject of improvement of education in the law.

Now I must leave it to you to see the bearing, if any, between what has been brought about in the way of improvement in medical education and the qualifications required to practice medicine and the advance in the standards of legal education and admission to the Bar. While the contents of the two subjects of law and medicine are very different and the methods of training for the practice of each are equally diverse, the two professions have certain fundamental subjects in common which bear upon the questions just raised.

Law and medicine are two of the three traditional learned professions with existing and continuous traditions and history from antiquity to the present day, each having an important relation to the foundation of universities in the middle ages. Each profession stands in such a relation of responsibility and of service to the community that the public recognizes, however inadequately, that the proper fulfillment of these functions requires some principles of conduct and the possession of specialized, often highly technical knowledge, and as a rule endeavors, however imperfectly, by legislative enactment or judicial procedure to secure corresponding qualifications for professional practice. Leaving aside for a moment the contention to which I shall have occasion to refer later, that there is a political aspect to the government and administration of law and justice which affects fundamentally the consideration of problems of medical education, it would appear that in spite of all diversities of subject-matter, of methods, of functions and of aim, there remains enough in common between the two professions in their historical background, in their cherished traditions of character and learning in their foundation of learned professions upon adequate standards of education, both local, general and special, in their organization and in the vital interest to the community in safeguarding entrance to the profession by the establishment and enforcement of proper standards of qualifications for practice, to justify the expectation, confirmed indeed by experience, that each may find helpful suggestions in the methods, accomplishments and experiences of the other in their efforts to attain their respective aim in the field of education and of admission to practice.

It would lead altogether too far afield to attempt even a brief survey of the historical development of medical education in this

country; but there are certain points in this development which it is necessary for our purposes to touch upon. The first of these is the extraordinary fact that the apprenticeship system—which in colonial days was the only available method of medical training in this country, until the establishment of the medical department of the college of Philadelphia, now the University of Pennsylvania, in 1765, and that of Kings College, now Columbia University, three years later—has lingered on in legal training up to the present day, although with diminishing emphasis, in the form of the clerkship or pupilship in an attorney's office as a substitute for, or required supplement of, a systematic study in a law school.

With the provision of an over-abundance of medical schools after the first third of the last century, no one entertained the idea that an adequate undergraduate medical education could be obtained outside of a medical school. The reason for this difference between law and medicine is, of course, due not to the lack of law students, of which there is a superfluity, but to the absence in a law school of opportunity for practical training comparable to that furnished the medical students by laboratories, dispensaries and hospitals.

The greatest of the recent improvements in medical education has been in the increase and better utilization of the opportunities for clinical training.

Here I trust that you will indulge the query of an outsider on a controversional matter, as to whether the problems of legal education are not unnecessarily complicated by the perpetuation of a system which, whatever its merits under simpler and different conditions, has outlived its usefulness with the enormous increase in the bulk and complexity of case and statute law and the changes in the organization and practice of lawyers' offices. May not practical training be provided in law schools even superior to that to be derived from service as a clerk or pupil in an attorney's office, and in any case is not the time of the student spent to greater advantage in systematic study in the school? At least so far as medicine is concerned routine is picked up only too easily by the medical graduate.

Law and medicine have suffered almost equally in this country from the severance of their schools from intimate integral connection with universities, their historic hope; but this defect

has now been remedied almost, though not quite completely, so far as medical schools are concerned.

Most of the medical schools, and all of the better ones, are departments of universities coordinate with the other faculties and completely under university control. This has been an incalculable gain both for medicine and for the universities, and I doubt not would be as great for law, if it could be secured in equal measure.

The great achievements in the last two decades in the improvement of medical education have been the extinction of most of the independent proprietary medical schools conducted for gain, which were the great evil of American medicine, and brought our medical schools to the low estate to which they sank during most of the 19th century and at the same time an equally remarkable advancement in the educational standards and facilities of most of the remaining schools.

The result has been fewer schools, more numerous and better opportunities for obtaining a good medical education, a great reduction in the total number of students of medicine, followed in the last three years by a decided upward trend and a marked preference of these students for the better schools. How great and how rapid these changes have been may be illustrated by the following startling figures taken from reports of the Council on Medical Education of the American Medical Association.

In 1904, when the council began its work, the United States had 162 medical schools, or over half the world's supply, with 28,142 students, and with only 3 per cent requiring any college work for admission.

In 1921 there were 83 medical schools (as contrasted with 162) with 14,872 students and with 92.8 per cent requiring two years of college work for admission.

During the same last 15 years the proportion of medical students in well or fairly equipped medical colleges has increased from 3.9 per cent to 96.1 per cent.

It is interesting to contrast with these figures those for law schools. In Mr. Reed's valuable studies for Carnegie Foundation, we find that in 1900 there were 102 law schools, with 12,516 students and in 1921, 147 law schools with presumably not far from double the number of students, if one may judge

from the average increase up to 1917, the last year for which I find a statement. Of these law schools, over one-half are part-time schools and 89 require no college work whatever for admission. It is evident that the development of law schools during this period has been the reverse of that of medical schools as regards the increase in number both of schools and of students, and that the requirements for admission are much lower for the majority of law schools. I shall not pause to inquire whether the law has become the refuge of students now excluded from medical schools, or whether there has been such a conquest of disease as to require fewer doctors, or whether accompanying this more robust health, there has been such an increase of litigation as to necessitate doubling the number of lawyers in 20 years. In view, however, of some alarm expressed both within and outside of the medical profession that there is a shortage of physicians, I may remark that the dearth is confined to rural districts and is due to other causes than an insufficient number of physicians in ratio to the total population, which is now twice as high as that of Great Britain, the country with the next largest supply of doctors.

How to secure a better distribution of physicians is an important subject, but this is not the occasion for its consideration. It may be said, however, that there is general agreement that the reduction in the number of medical schools has gone as far as is desirable. I judge that the time is remote, if it ever arrives, when it will be necessary to provide against shortage of either law schools or of lawyers, whatever may be the need of better ones. It is not surprising that such remarkable changes, which are certainly in the direction of reform, as have been brought about in so short a period of time in medical education, should have arrested attention even outside of the medical profession. Your interest in this matter relates mainly to the influences and agencies through which these great improvements have been effected. Insofar as these may have a bearing upon the legal education I may say at once that by far the greatest single agency in effecting the elimination of inferior medical schools and in elevating the general standard of medical education in the United States has been the Council on Medical Education of the American Medical Association. But before con-

sidering this organization and work I desire to call to your attention certain other factors which have been concerned bearing constantly in mind their possible bearing upon problems of legal education.

First may be mentioned the advances in knowledge, both in the science and art of medicine, exceeding during the last half century all that had been attained before in human history, and still progressing with rapid strides. With this new knowledge has come to the physician and the sanitarian increased power to control disease both by prevention and by cure, improved methods of diagnosis and of treatment, and new lines of attack upon the problems of disease and injuries. It is not necessary on this occasion to develop this fascinating theme, for it must be obvious that the demand for such improvements in medical education as shall train physicians to supply to the community the benefits of the best that there is in medical school and knowledge, has acquired an urgency and insistence which it could not formerly claim in anything like equal measure. It is the force of this appeal which has not only driven university and medical school educators to set their house in order, but has also brought to the aid of medical schools generous gifts of public-spirited philanthropists, and especially of the General Education Board, the Rockefeller Foundation, the Carnegie Foundation for the Advancement of Teaching, and the Carnegie Corporation which have naturally been desirous that their donations should be wisely expended. Of even greater significance is destined to be the more generous support of their medical departments by both state-supported and privately endowed universities. Advancement of scientific and practical medicine and the resulting strength of the appeal that can now be made for private and public financial support of medical schools and their hospitals are fundamental factors in bringing about the recent improvement in medical education. So far as cost is concerned, law is situated both more favorably and less favorably than medicine. More favorably insofar as the expenditures for the establishment and maintenance of even the best legal school does not approach the cost of a good medical school; and less favorable in that this relatively small cost favors the establishing of low grade and needless legal schools, a circumstance which doubtless

accounts largely for the enormous growth in the number of law schools during the last 40 years.

In this connection I raise the question, leaving it for you to answer, whether the developments of recent years in the science and art of jurisprudence, the vast growth in bulk and complexity of substantive law and improved methods of teaching are not calculated to create the necessity and the demand for improvement in legal education comparable to that required in medicine as the result of new discoveries in advancing knowledge.

An important influence in raising the general standard of medical education has been the example of a few superior medical schools.

Until the opening of The Johns Hopkins Medical School in 1895 the improvement was spasmodic and slow, consisting chiefly in raising the course, lengthening the period of study and making some feeble demands for preliminary education. The medical departments of Northwestern University, of the University of Michigan and the Harvard Medical School, took the lead in these advances. The standards set by The Johns Hopkins Medical School were far in advance of any existing for medical education up to that time in this country as regards the requirements of preliminary education, the provision of laboratories, full scientific teachers, and the methods and opportunities for clinical training. It remains still the only medical school requiring for admission a college degree.

In medicine as in law schools of a high grade, furnishing excellent educational opportunities and exerting a wide and beneficial influence, have been developed. Some particular law schools have made highly important contributions to legal education; but it is well to remember that these do not determine the average standard of professional education, which in the last analysis do not rise much above the minimum requirements of admission to practice. To raise the general level, the crucial matter both for law and for medicine is of course the establishment and enforcement of high standards of admission to practice. The first step is the separation of the right to practice from the mere possession of a degree or diploma of graduation from the professional school by the creation of state examining and licensing boards.

This I have written by way of introduction to what I have to say regarding the path blazed by the American Medical Association mainly, and some other agencies, in the improvement of medical education.

The American Medical Association was founded in 1847, with the express purpose of bringing about an improvement in the education of medical students. It never lost sight of this purpose; but not until a reorganization of the Association, which took place before the beginning of this century, were the efforts of the American Association which were directed to this need accompanied with any decided degree of success. The Association at all of its meetings passed resolutions, made recommendations, created committees, and had sections on education; but it exerted practically no influence upon an elevation of the standards of education. Now this reorganization of the American Medical Association, which began in 1898, and which has been described and set forth pretty adequately in several legal articles that I have seen, and quite concisely but very accurately by Mr. Reed in his valuable report to the Carnegie Foundation, had this important result, that the American Medical Association was so reorganized that practically the whole body of the profession became members of the Association, the unit being the county medical society, leading up to the state medical society, and membership in the state medical society is *ipso facto* membership in the American Medical Association. It is therefore in every sense of the word the representative of the entire profession; and it is important to bear in mind that these great reforms of medical education have originated in the body of the profession, among the practitioners of medicine, not as a result of pressure from the outside by the general public, and not from a stimulus derived from our medical schools.

I shall not comment upon the differences in the organization of your American Bar Association, the National Association, and the state and local bar associations, save to remark that they hardly can be said to represent the entire body of the legal profession in quite the same way, with the same steps socially, as does the American Association represent the body of the medical profession.

Soon after this reorganization a council on medical education was created, and it is the work of the council which has been so significant in bringing about the improvement to which I call attention. It is hardly necessary to describe in detail the organization of the council. It will suffice, I think, to point out certain of the salient features. It is an organization with executive officers who are paid, and some of whom give their entire time to the work. Its first activity was in securing active cooperation with two very important bodies, namely, the Association of American Medical Colleges and the state licensing boards. It was obviously a primary essential to secure the cooperation of the medical schools on the one hand and of the examining and licensing bodies on the other.

Now a feature of the work has been, not through any legal action, but solely by moral pressure, to induce the state licensing and examining boards to raise their standards for admission to the practice of medicine to a point more nearly in conformity with the demands of modern medical education and medical practice than those which existed previously. That, as I have intimated, is the crucial matter, of course, to secure the establishment of these standards. That has been brought about, so far as medicine is concerned, over a very large part of this country. Medical schools are necessarily forced to the wall and out of existence if their graduates are not eligible for admission to the examination of these licensing boards. At present 33 of the licensing boards of the various states of the union require that the candidate shall have graduated from a medical school which requires at least two years of college work preliminary to entrance upon the medical studies. This, you see, automatically secures that very important improvement.

A very important feature of the work has been publicity and classification of the medical schools. This publicity has been based upon actual study, observation and inspection of the different schools. Standards which are easily applied, and which I have every confidence are justly applied for the classification of the medical schools, are based upon their facilities for training medical students, upon the number of full sized teachers in the faculty, and the clinical and laboratory facilities, and to some extent also upon experience with the graduates, and to what extent

they are able to pass the examining boards. In this way medical schools, if unable to meet these requirements, have been forced to the wall and practically out of existence.

Very soon after the work of the Council on Medical Education was initiated there appeared one of the most epochal reports in all educational literature, that of Mr. Abraham Flexner to the Carnegie Foundation on the conditions of medical education in this country. That report had a very great influence not only inside of the medical profession, but possibly to an even larger extent on the general public, and particularly in college and university circles. It is one of the most important, influential, persuasive documents in this story of the improvement of medical education in this country. Universities that knew little about the character of the medical schools with which their names were connected were aroused to a situation which demanded their attention and secured their attention to a very large extent.

It is therefore by this publicity and this system of classification of medical schools, and through the influence of the Flexner report, that, more than in any other way, these very important reforms in medical education have been secured. I have brought with me samples of the reports and documents which show how the Council on Medical Education proceeds. This one which I hold in my hand, for example, is an extremely important one, widely distributed. It is entitled "The Choice of a Medical School." That goes to students in our colleges. It contains the essential information to enable a student to determine whether or not a school which he may contemplate entering meets the requirements, whether it is in Class A or Class B or Class C. The table will show whether graduation from that school entitles the graduate to be eligible for examination by the state licensing board in New York, in Pennsylvania, in Maryland or in Illinois. All that information is contained in this pamphlet.

Chairman Carson:

How is it published?

Dr. Welch:

This is published by the American Medical Association, the council being entirely supported from the funds of the American

Medical Association. And as you can imagine, such publications as this illustrate why it is that now the great majority of medical students are seeking to enter the better medical schools. The information formerly not procurable or difficult to get is in this handy shape and contains all of the essential facts.

These annual reports of the Council on Medical Education are very important examples of the sort of work which this admirable council has done. These annual conferences, such as you are initiating here today and tomorrow, conferences of the Council on Medical Education, bring together the representatives of various medical schools, the Federated Board of the State Licensing Board, invited delegates, representatives of the universities and colleges. These conferences have become very significant and very important. Valuable discussions take place and an interchange of opinion is had, and while, as I have already stated, the conclusions reached have no legal force or effect, they exert an influence upon opinion, and upon the activities of these institutions, which is simply of incalculable value.

There have been certain criticisms and objections raised which I may perhaps for a moment touch upon. I should like to say just one word about the contention of Mr. Reed in that very helpful and important report of an essential and fundamental difference between the medical profession and the legal profession in the fact that the lawyer has political and public functions, or is likely to have, and that it would be most undemocratic and most undesirable to fix standards for entrance into the profession of the law such that all economic classes should not be represented.

I would simply remark that it seems to me as if the performance of these functions, additional, as I conceive it, to those of his relations to his client, functions which he describes as public and political in relation to the government, the administration, the development and the administration of justice and of law, would require better education, would be an argument for better education rather than for a lowering of the standards. Nor am I quite willing to concede that the difference is so great between the two professions in this regard. The preservation of health is of extreme importance to the community. It requires the activities of administrators who are governmental appointees.

It stands then in a public relationship which, while of course not exactly comparable to that of a lawyer, is still a public function. And we consider that these activities of the physician require conditionally a specialized training, preventive medicine as contrasted with curative medicine, requires training in addition to that which is furnished to the practitioner of medicine.

I shall, of course, not discuss the question, because I have not competence to do so, as to the matter of classification of the Bar with reference to there being different grades classified according to their function, but I would remark that the example which he cites as an analogous situation in medicine, namely, that we separate, grade as it were, the dentists, the nurses, the apothecaries, the veterinarians, and that that would be an analogy to a somewhat similar classification of the Bar. I should consider that the analogy, so far as medicine is concerned, if one seeks for functional differences among the members of the two professions, would be formed in the distinction between consultants, if you like, or specialists most numerous and varied, and often requiring quite special and technical training. The general practitioner, the sanitarian, those it seems to me are the functional differences in the profession of medicine which have some analogy to similar differences in the practice of the profession of the law. And we should not consider it at all desirable to have any different standards of admission for those who are exercising later these various functions, any different standards of admission to the practice of medicine. In fact, the great emphasis and importance is attached to seeing to it that a good, broad, general training is the foundation for all of these subsequent directions of specialization. I have not exhausted by any means all of the varying functional activities if one cares to consider them, but I would call attention to the fact that that seems to me to be the analogy rather than between the apothecary, the nurse and the doctor, in considering the particular point discussed by Mr. Reed.

We are very, very familiar in discussions of this matter in medicine with the cry that we are closing the door of opportunity to the poor boy, or the cry that there have been great doctors who never had anything comparable to this elaborate education. They say, "These men never went to college, and we can point

to them as shining examples whom we honor." Now a selection of some sort is implied when you make demands such as are embodied in the recommendations of the Bar Association requiring that the candidate for admisison to the Bar shall have been graduated from a legal school requiring two years of college work preliminary to entrance upon legal studies, just as is done in medicine. But the selection is really not on the ground of the pocketbook, it is rather on the ground of mental capacity of certain general character. It is not so easy to pass along the path if there are obstacles in the way. But is it to be supposed that a man like Abraham Lincoln in your profession, or Ephraim McDowell or Nathan Smith in ours, would not have overcome handicaps and obstacles, and in overcoming them that they would not have become even more alert, even more resourceful, and have derived distinct advantage from the very fact that they had to overcome certain obstacles? The requirement of two years of college work has not eliminated the poor boy who has to work his way through college and through the medical school. I thought I would inquire about that very question this morning from our dean. He tells me that over one-half of the students in The Johns Hopkins Medical School—and we require a completed liberal education, a college degree—over one-half were working their way through in part or in whole or have borrowed money to accomplish their education. Money can be secured very often because of the very fact that the young man possessed (and now-a-days young women, too, in medicine) certain qualities which make a public-spirited man glad to lend aid, making him willing to make the investment in that young man, and he expects a return from it. It does not result in the elimination of the poor boy when you require a better standard of preliminary education. But it is to be desired that in all classes there should be some method by which we are able to lessen at least, if not to exclude, those who are unfitted for the study of the law or medicine. They have not the mental capacity, they have not the industry, the energy, the character, the intelligence. If you are familiar with the discussions as to the situation in our colleges and universities today, you will know that that is just one of the points, how is it possible to make the selection based upon securing those who are really fitted for a

higher education. I think that one of the methods is not so much a selection on an economic basis, but this is more likely to secure those with a desire, with the ability and strength of character and persistence of effort and industry than otherwise would be possible. So I think the selection is along the lines of the community, resourcefulness, and ability and enthusiasm of the young men. Anyhow, we encounter precisely the same criticism which I see is urged against these higher standards in the law. As regards the requirement of two years of college work, it is of course a pity that we have to either truncate the college course or telescope it into the professional education. There seems to be no other way.

As I have said, at Johns Hopkins we do make it straight on to the college, and curiously enough, the average age of graduation of our students is not far from the average age of graduation of students throughout the whole country.

Still, I do not urge that as a national standard, although it is to be hoped that if two years' college work are required there will be a considerable number who will go on to the completion of the college course.

But our colleges have developed as enormous institutions, as you know, and without regard to the needs of the professional education, except possibly that of theology in the past, and the efforts now to adjust the requirements of training in the profession to conditions in our colleges, these efforts encounter very great obstacles. I do not consider that this solution is the final one, this truncating the college course, dividing it in two; but it seems to me that for the present it is the most that can be attained and is to be regarded as our national American standard. It is so for medicine, and I doubt not that it will eventually be so for law.

So it seems to me that in many ways your problems for legal education are easier than ours. In that respect I may be mistaken. But you have not in the first instance to encounter the difficulties which we have in consequence of the existence of so many different sects and nondescript practitioners of all sorts of dogmas and doctrines in medicine.

I need hardly say that I am speaking in behalf of scientific, non-sectarian medicine, belonging to no school whatever, any

more than chemistry does, or physics, in which the guiding principles are the advancement of knowledge through the well-known scientific methods of observation and experiment, tested by experience, hoping that eventually we shall be able to base more and more of medical practice upon ascertained scientific discoveries as we are able to do in increasing measure every day, not committed to any dogma or doctrine which is regarded as a universal explanation of all diseases, and affords a guiding principle of all means of treatment, at the same time enabling the doctor to practice anything whatever that he considers to be of possible value in the relief of human suffering and the treatment of disease.

Now you have not to contend with all of these sects in law. The principle is of course only that we desire for the benefit of the community that there shall be adequate educational professional training for those who are called upon to administer to the sick and injured, that is all, without any reference to systems of practice—that is for the benefit of the community. And, again, you have not, I think, to consider to the extent that we have the credulity of the public in all of these matters. It has always been so. Doctors are very much too sensitive about these matters. Anything new, these various sects in medicine, have always arisen. They always have something in them. As Dr. Osler once told me, "The worst thing I know about the quacks is that they cure people." You have not in the same way, I think, to contend with all of these sects and fads and so on that we meet with in medicine. So I think in those respects, at least, you have a very decided advantage.

Chairman Carson:

There was Dr. Duck, who sold quack pills. That was an English case.

Dr. Welch:

Yes, I know about him. On the other hand, it is barely possible that the public is more interested that there should be a higher technical training, more certainty of the possession of adequate skill, on the part of the physician, than as to the technical attainments of the lawyer. I am not prepared to say that may not be the case. But, however it may be, we are both in-

volved upon the same undertaking, to elevate for the benefit of the public, and not for the benefit of our respective professions, the standards of education, the qualifications for admission to the Bar and to the practice of medicine. Our motives are entirely—I think I am justified in saying—altruistic. I am sure we have nothing more in mind than what is best for the good of the public.

Now, if in what I have said as to the experience in bringing about these great reforms in medical education and in the license to practice you find any hints, any suggestions, which may aid you in your efforts to secure similar results in legal education and admission to the Bar, I shall feel very proud and very abundantly justified in coming here and having this opportunity, which I appreciate most highly, of addressing you; and I beg in closing to reciprocate the very kind remarks that have been made as to the intellectual and sympathetic relations between our two professions and the hope I may venture in behalf of all my colleagues in the medical profession, some of whom I see here in this room, to bring to you, the legal profession, our most cordial greetings and to wish you the greatest success in the undertaking which you are facing by this conference tonight.

The meeting adjourned until Friday morning at ten o'clock.

SECOND DAY'S PROCEEDINGS.

MORNING SESSION.

Friday, February 24, 1922, 10 A. M.

Chairman Goodwin:

The Federal Bar Association of the District of Columbia has sent a copy of the resolution which they desire to offer to each member of the Conference. Of course there can be no time given to any suggestion that is not on our program. Tnis, however, is a resolution with which we have sympathy, and I am going to ask if I may have unanimous consent to take a vote on it. If there is any objection or any difference of opinion we cannot do it, of course, because we have no time to discuss it, but if we are unanimous we can express that opinion.

The resolution is:

Resolved, That this Conference recommend that the Congress of the United States in its consideration of the pending bill providing for a classification of civilian positions in the government service should establish schedules which will tend to attract and retain the services of the best legal talent.

(The motion, having been duly seconded, was put and carried without dissent.)

Some years ago a lawyer, the son of a Tennessee judge, who had had some connection with affairs of importance and had had been instrumental in connecting the City of New York with the great State of New Jersey, was brought into the office of the Secretary of the Treasury. During the war there was an obligation cast upon him greater in character, larger in extent, than had been put upon the shoulders of any Secretary of the Treasury in the history of the country. It was an obligation to be responsible in a way for furnishing the means, not merely a financing the war so far as we were concerned, but so far as our Allies were concerned. He was also given the obligation of assuming the burden of unifying the great transportation facilities of the country. These matters brought him in contact with the great financial interests of the country and gave him a power

and financial influence such as no man had ever had before. He, following the traditions of the American Bar, and doing exactly as any representative member of the American Bar would, conducted the affairs of that great office in that critical time in such a way that at the end of his service he came out financially destitute, but maintaining the high ideals of American citizenship and the American Bar.

It gives me great pleasure to ask Mr. William D. Guthrie, President of the New York State Bar Association, and Mr. James Byrne, of New York, President of the Association of the Bar of the City of New York, to escort to the chair the Honorable William G. McAdoo.

William G. McAdoo, of New York:

It is scarcely necessary for me to assure you of my great appreciation of your invitation to share, with the Chief Justice of the United States and other distinguished gentlemen, in the honor of presiding over the sessions of your Conference.

A Conference of delegates representing the American, state and local bar associations of the country to consider the very vital question of admissions to the Bar, is a significant and dramatic event in the history of the profession. You have assembled for the specific purpose of discussing the recommendations of the American Bar Association that, as a condition of admission to the Bar, the applicant shall have had two years of study in a college, and a course of three years' duration in a full-time law school, or its equivalent in a longer course in a part-time law school.

One naturally approaches such a question from a point of view influenced in great measure by the course and experience of his own life. For example, a lawyer who has been constantly and exclusively absorbed in the active pursuit of his private practice will instinctively view the question from the standpoint of the good of the profession alone. But the lawyer whose career has taken him away at times from active practice and immersed him in great enterprises or involved him in large responsibilities of public life, is inclined to view the problem not alone from the standpoint of the profession, but also in its wider aspects—its relation to the public good as well as its effects upon the profession itself.

Then, again, the lawyer who has had the good fortune of a college education and of a thorough course in a law school will naturally regard the more exacting requirements in the way of a collegiate and legal education as essential to the welfare of the profession and to the public good, whereas that great body of lawyers who have had to make their own way in the world, who have never been able to go to college and who have secured a legal education through hard work and struggle in the old-fashioned way—in somebody's law office—with the unsystematic training and the less efficient legal education which necessarily comes from an unthorough school of that character, but who, by their ability and industry, have gained a deservedly high place at the Bar, may naturally hesitate to approve the exacting standard which the American Bar Association seeks to impose.

Unfortunately for myself, I was unable to go to a law school. At the age of 18 I had to leave college and face the world. My only opportunity to gain a legal education was through night studies under the tutelage of the late Honorable William Henry DeWitt, of the Chattanooga Bar. And may I digress for a moment to pay a tribute to this noble man and lawyer, jurist and gentleman, scholar and patriot, whose generous friendship and constant helpfulness toward every young and struggling lawyer endeared him, not alone to them, but to the community in which he lived, and gained for him the unqualified esteem and admiration of his professional brethren. Painstaking, unselfish and thorough as this splendid friend and preceptor was, nevertheless it was impossible for his pupil to receive the systematic, orderly and logical education that a properly conducted law school provides. And so, in my own case, I approach the subject from the standpoint of one who knows by contrast rather than by experience the value of the law school education; but that very fact gives me a keener realization of the importance of the educational standard now proposed.

The responsibilities of the lawyer are so grave and the function he performs is so vital that the value of the highest moral and ethical standards cannot be exaggerated. And those same responsibilties make it imperative that his professional education shall be so thorough that he will be equipped in the highest

degree to discharge those responsibilities when he comes to the Bar.

But it is not alone as a member of the Bar that a lawyer is an important citizen and owes great responsibilities to the community. He is a vital and necessary factor in the success of every extensive business enterprise. He exerts a large influence on public opinion and in the main is entrusted with political leadership in the community, the state and the nation.

It is his function not to create strife, but through the processes of the law or through counsel and conciliation, to compose and eliminate it. It is his function not to impede the processes of business, but through clarity of advice and counsel, to facilitate them. Here is this multitude of men, entrusted by the state with the special prerogative of giving counsel and representing in litigation the public at large, and who exercise a great influence over the economic, social and political life of the country.

The American Bar Association's proposal is to create conditions of such a character that in the course of time every member of the profession shall have had at least two years in a university or college, which are, after all, one of the bulwarks of democracy and progress, and shall have devoted himself intensively, at least three years, to the study of his profession. Can there be any reasonable doubt that the success of such proposals will result in the material and moral betterment of the legal profession and of the nation as a whole?

I have in mind, of course, what has been said about the necessity of keeping the profesion open to all classes of our citizens and to all ranks of society; but having in view the facilities for education presented by the colleges and the universities of the country and the opportunities offered to industrious and ambitious men to work their way through college, there can be no doubt that the privileges of the Bar would continue to be open to men from every walk of life, regardless of their financial means.

You cannot, of course, under any restricted conditions, have a situation where admission to the Bar is open to every man. The imposition of any requirements at all necessarily means restriction and limitation.

The essential thing is not that every follower of the plough, every worker in the machine shop, every man at the forge, shall have an opportunity to enter the legal profession, but rather that the way shall be open from the plough, from the work shop, and from the forge to the profession of the law, so that men in those callings and similar callings, and their sons, may reach the goal if they have the capacity, the ambition and the willingness to make the sacrifices which proper preparation reasonably requires.

May I not say, in closing, that the suggestions or proposals you are considering are not particularly new, or even unprecedentedly drastic? As far back as February 26, 1821 (more than 100 years ago), Mr. Jefferson, that remarkable sage and philosopher, himself the founder of a great university and a great law school, outlining a course of study in preparation for the Bar, in a letter to his friend Dabney Terrell, enumerates Coke's Four Institutes, the works of Matthew Bacon, Blackstone's Maxims of Equity, and Bridgman's Digested Index, saying that this would require four or five hours a day for about two years. After these, the best of the reporters since Blackstone should be read for any new cases which have occurred since his time. "By way of change and relief," he says, "for another hour or two in the day, should be read the law tracts of merit which are many, and among them all those of Baron Gilbert are of the first order. In these hours, too, may be read Bracton (now translated) and Justinian's Institute. . . . . After Bracton, Reeves' History of the English Law may be read to advantage. During this same hour or two of lighter law reading, select and leading cases of the reporters may be successfully read, which the several digests will have pointed out and referred to."

He suggests that in addition to all of this, which refers only to the common law and chancery, the Admiralty law, the Ecclesiastical law, and the Law of Nations should be studied, refers to a number of books on those subjects, and concludes: "Besides these six hours of law reading, light and heavy, and those necessary for the repasts of the day, for exercise and sleep, which suppose to be 10 or 12, there will still be six or eight hours for reading history, politics, ethics, physics, oratory, poetry, criticisms, etc., as necessary as law to form an accomplished lawyer."

Are not 100 years long enough for us in progressive America to mature an equivalent to the Jeffersonian standard?

Chairman McAdoo (continuing):

We will proceed with the order of the day, the general subject for discussion being the general character of a legal education which should be given to those coming to the practice of the law. This subject is divided into four topics, the technical education necessary to enable the lawyer to serve the public is the first part of it. This topic will be introduced by James Byrne, President of the Bar Association of the City of New York, and I now have the pleasure of introducing Mr. Byrne.

James Byrne, of New York:

One day when I was in London I heard that there was a dinner to be given that night by the English Bar to the American Bar, and I went there, and a remarkable dinner it was. There was the Lord Chancellor, Mr. Choate, the Attorney General, the Solicitor General, all the judges and judicial officials of the government, and they made extraordinarily good speeches, and a number of them were directed to the glorification of Americans and the Bar of America. One of them, the Attorney General, spoke of the fact that before the American Revolution there were more copies of Blackstone sold in America than in England. Another spoke of an incident in American history which had always seemed to him to reflect the greatest credit on the Bar of our common country. That was at the time of the so-called Boston massacre. British soldiers were charged with having killed colonists and a British official surrendered his officers to the civil authorities and one of the leading American rebels came to his defense. Another went on to something else that had happened in America. And I said to myself really they are an extraordinarily learned and cultivated body of men. I doubt very much whether in America in dinner we could have referred with such precision to incidents that had occurred in England shortly before the Revolution. The next morning I was going to the Continent, and as I stopped at a book stall I was attracted by a volume, Trevelyan's "The American Revolution," and I purchased it and upon looking it over I saw at page 33 what the

Attorney General stated in his speech, and at page 43 what the Solicitor General had told us in his speech, and at page 53 what the next distinguished speaker had referred to, and so on, and I was struck by the fact that these leaders of the English Bar designedly, and in order, each chose something from this volume for himself and then left something for those who came after. But this is not the situation here. The gentlemen who have preceded me have not only each taken something for himself, but they have left nothing for those that were to follow. Not merely have they left nothing for me, but they took what I had. I had the argument, in the very words in which it was uttered, that if the Bar was not to have a college education, then we were to reverse the whole system of American education so far as lawyers were concerned. The very words that we were a governing class, those were mine, and all the inferences that were to follow from it. After yesterday's proceedings all that was left me last night was to point out the argument that because we were a public profession, it could not be logically said that we should have a less education than if we were a private profession; but Dr. Welch, not even a lawyer, took those words from my mouth.

And so I have been in doubt just how I should act, just how I should deal with this question. Should I say that all of these arguments were great discoveries, which in modern times particularly we know are simultaneously made by investigators in various portions of the world; these rare fruits, did they flash upon minds in New York and Baltimore and Denver and St. Louis at the same moment; or should I say they were like the words of an old song that it does no harm to sing a good song twice, especially if you are to join in the chorus. I finally decided that the fact that we are all repeating ourselves, saying the same things over and over again, shows that those things are true. And if we are to give the lawyer less education, require less of him than of the doctor, and of the American business man who goes to the business school, than of the engineer, than of the individual in the other professions, if we are to say that the lawyer should receive less education than these others, we are proceeding in that direction contrary to the whole theory upon which this country has proceeded as to the value of education from the very beginning. It is also true, true beyond a question, that if we are

a governing class, if we are the men by whom the laws are to be made, or at any rate by whom they are to be enforced, that responsibility devolves upon us more than upon any other profession in the country; and it is equally true that in order to fulfill those terrible responsibilities we ought to have the highest education.

Now I think at the very outset we ought to dispose of one thing. There has been a very able investigation that has gone on for years. The result of the investigation will be of permanent value to us. I refer to the investigation made by the Carnegie Foundation. The title of the investigation is the training for the public profession of the law.

We have all got into the habit of saying that a lawyer differs from other people in that his profession is a public one and not a private one. Now suppose that one of us went to a physician and said "Look here, this is a serious matter, I think. Are you as well educated as the most favored men in your profession?" The doctor replies "Yes, I went to college, I studied four years in a medical college, and then I went to different hospitals." Then we say "Well, on the whole, then, you represent the results of the best education that can be given for your profession?" "Yes."

Very well. Then the patient becomes a client and goes to the lawyer on an important case, and he, in turn, asks the lawyer "have you as good an education as any of the other men in your profession?" The lawyer says "That is an extraordinary inquiry to make of me. No, I didn't go to college, I simply went one year to a law school." Then the client says "But the doctor says he got the best possible education in medicine, he went to college and then afterwards four years in medical school." The lawyer continues "Oh, well, that is all very well for him, but do you know any doctors who are in Congress compared to the lawyers who are there? Can you name a doctor who ever became President of the United States for every dozen lawyers I can tell you who became President of the United States? It is all very well to educate your doctor, who belongs to a private profession, but for my profession you don't have to. You don't think of electing a doctor to Congress. I am the man you are going to send to Congress. It is all very well to give him a college course and

then a medical course, but in the interest of democratic institutions, you have no right to ask me to take a college course and then a law course."

Now, what do you think any client would think of the lawyer who answered him that way. Of course he would think he was a lunatic. Of course, when the client asks the lawyer that question, if he had not had the college education and the training for his profession that the doctor had had in his profession, he would say that it was the subject of the deepest regret to him that he had not, and he would say that he had tried in every possible way to continue his education, such as he had had, and would continue it until the end of his life, when perhaps it would be very nearly the same, or as much as the education of the man who had had every advantage of college course in his youth. There it seems to me we really come to the point of it all.

I do not believe there is a man, there is certainly no man in the City of New York, who is not proud of the position that men in the profession occupy there who have not had the same preliminary education as the great bulk of young men coming to New York to enter the practice of the law have today. Why, it does not make any difference what you do with men of the character, the moral qualities, the persistence, the determination to learn all that is necessary to enable them to serve their clients in the community to the very best of the abilities with which they were born. Of course, we do not have to consider those men, they got all the education it was possible for them to get in their time. If men put obstacles in the way of such men, if they say you cannot become a doctor or a lawyer unless you go through this form or that form, they go through it. So whenever we can say every man will do this or no man can do this, of course we are meeting exceptions in extraordinary men. What we have to think of in the way of educational requirements is what shall be the requirements when it comes to good average men, the sort of man who, if he begins with studies which develop a love of learning and interest in philanthropic thoughts, something besides the ordinary things he needs to make his daily living, will have the desire to go on with his education and learn more and more. If he has learned habits of application in the formative years, if he sees men of great intellect close at hand whom he has learned

to admire, there is a natural tendency on his part as he grows older to have in his mind the hope that he will occupy in the minds of others in the profession the position that those men of learning have had in his own mind. That is what happens to the ordinary man. The thing is to think what the ordinary man—not the man with the burning ambition, not the man with the strong moral sense of his obligation, but the man who is a good fellow, is a good citizen, and has a good brain, what are we going to do to get the very best out of him for himself and for his country. That is the problem before us when we are talking of the education of lawyers.

Now, then, again, we come back to the truism that if we ask that lawyers should be taught any other way than people in other professions are taught in this country, we are flinging away in the case of lawyers all the experience we have acquired with the rest of mankind in this country.

One point that has been constantly in my mind for the last 40 years is not how unfair it was to someone not to let him become a lawyer in some easy way, but how terribly unfair it was to him to permit him to become a lawyer in some easy way.

Why should we let a man who may have a really remarkable intelligence enter into a profession with a feeling of inferiority, thinking from the outset that there is no use of his trying to deal with great constitutional questions, that the police court is the place for him to go to practice. Why should we allow men who may be quite as competent as the great majority of the men in our cities or land who are dealing with important problems of the law, why should we allow such men simply because they do not have a chance, because we did not force them into taking a chance of getting an education and seeing what could be developed from it, why should we be so unfair to those men as to allow them to become lawyers without the proper preliminary education?

I have seen it in my office there, as in most of the larger offices in New York, for 30 or 40 or 50 years, at any rate, that men have been taken from practically a very limited number of law schools. Whether the members of those firms are right or wrong, they thought it made it easier for them to have as their young assistants the men who came from a very small number of law schools. Men grow up in their offices. You may be

sure today that there is not one such office where, if an office boy shows he has very unusual abilities and industry and character, they would not see that the boy learns all about the opportunities for an education, for a scholarship, and the ease with which men can go through the greatest universities after having been provided with a very little money. I say there is not such an office that would not insist on that boy getting as good an education as the most educated man in that firm had for himself. If the boy, however, has abilities which they see might very well be as good as the abilities of most men at the Bar, and nothing further, I doubt whether they would take any very great interest in him. They would hear that he was going to school and studying law somewhere, and they would tell their friends about him, and they would help him to become a lawyer that way, but he would not be taken into that office. He would go into an entirely different branch of the law. They would follow him with interest, and they might send him cases and all that, but that boy would be debarred from the larger character of business that is conducted in those offices. And the reason is that we want men who from the beginning know how to deal with things that are being done on a large scale.

The men coming from the leading law schools have been doing things on the very greatest scale. Talk about the dry bones of a case. What difference does it make, in the excitement of a discussion in a law school, whether you are talking about an actual or hypothetical case of a would-be thief putting his hand in a man's pocket, the question hinging on whether or not there is anything in the pocket to steal or not.

It may be it would be a good thing to have a clinic as they call it, in the law school, it may be that it would be a good thing to open the case system of law schools with a lecture at the beginning, and it may be that the course should be four years rather than three years. There might be more practice. In those things I cannot get any very vivid interest. I am perfectly willing to leave all the details of what should be done in the law school to the men who conduct those law schools, in which we assume that there are excellent pedagogues, who know nothing of the world. Why, they are what Judge Hughes says they are, not the guides of our youth, but the instructors of the profession.

Talk about their lack of worldliness. Why, there is probably not one of them who has not talked with more men who are capable of giving him a correct impression of what is necessary for a man who is going into the profession than any practicing lawyer in this room. What do I know, what opportunities have I to know, beyond certain main principles of what is the best thing to be studied in the law school, of what is the most help to the young man? Every dean of one of those great law schools has a hundred or two hundred men going out every year, men who come back or write to him or talk to him. We gentlemen in the office think that we are the only people who are discussing these young men. Why, they are discussing us. It is like Thackery's story, that when you pat the little boy you are giving half a crown to and saying "Here, my little man," he is looking up to you and saying to himself "That is a queer old duffer." There are two sides. The men in the law school get the other side easier than we do. Then they are constantly getting this stream of information from these men that are going out every year into the world.

Now, so far as I am concerned, when I talk to members of law faculties about law school graduates, I probably say worthless things. I will probably say something that has occurred to me the night before, because some young man in my office has not found a case. But if I have got to say what I really feel I say this of those men who have been coming to my office for 40 years—and I say it without any of the sentiment that attaches to a retrospect rather than to a present or to the possibility of a future experience—that when men say they did not know how to find the law, I didn't have any such difficulty; when they say they were useless because they did not know practice, I never found any such difficulty. Give them time and point out a form book and with their way of not trusting forms and time to look up the cases, I know they would get out the attachment even in the most despicable technical days of the New York practice—I know it, I have never been betrayed by any of them. For myself, when I came to New York I rather wished they had made me a little less keen about one or two things, but that was simply to preserve my self-respect. It did not make any difference to the firm I went into.

Then you hear today these men from the great law schools talking about other subjects, the future of the profession, the improvement of the law. I do not believe there is a large office but will expect the young men who come into it to do some public work. They will not let them work as we have worked for the last 40 years. They say you have a public service to perform. Dean Pound said in his great address at the Centennial of the Law School, we have got to see in the case of these commissions, for instance, that a yoke is put on their neck, as Coke and the other lawyers in the days of the Stuarts put a yoke upon the bodies who tended to give an oriental judgment instead of one according to the common law.

Then we have to be constantly looking for the future of the law as to what way it is going, and under the leadership of the heads of the law schools, as well as the leadership of the heads of Bar associations and of the profession, these young men, before they have lost the habits of study which they gained in the law school, will be the tools with which this great work of improving the law will be carried on.

Chairman McAdoo:

I may say now that the time is rather short for the discussion of these four topics and the purpose therefore is not to have general discussion until the completion of the discussion as called for by the program.

Mr. Byrne will now be followed by Charles A. Boston, of New York.

Charles A. Boston, of New York:

When I thought of what I was going to say it seemed to me that it should emphasize two aspects of the specific topic which was assigned to Mr. Byrne—the interest of the public in technical education. That indicated a discussion of a technical education, and of a public interest. And then I was invited, as you all were, to read this report of the Carnegie Foundation, and a number of other books, before we arrived at a conclusion, and I confess that I am a little surprised that we have not heard more about this report. It seems to me that the first duty of the Bar to the public with respect to technical education is to educate the Carnegie Foundation for the Advancement of Teaching.

I read the annual report of the head of that institution, his report to the board of trustees, in which he transmitted this report to the institution, and it contained data with respect to the medical profession as well as data with respect to the profession of the law. I confess that I was impressed with what struck me individually as an inconsistency between the attitude of that institution toward the profession of medicine and its attitude toward the profession of the law. I think that this difference was based upon the conclusion, which is stated as a conclusion of the compiler of this report, who confesses that he is a layman and does not look upon this professional question from a professional standpoint. It seems to me that therein the compiler has been led into a most unfortunate conclusion, but fortunately he states that some of his deductions are mere guess work. My own impression was that more than he confessed was mere guess work.

Now, one thing that struck me about his report is the fact that as you read through the headlines—and let me say that it is a magnificent contribution to information respecting education of the profession, it lays the foundation for some very enlightening conclusions, but in my judgment those conclusions are not appended to the report. In reading, the headlines before I got to the conclusion I found one chapter or part of a chapter headed "Failure of the differentiation of the Bar" and the next part was "Failure of the unitary Bar," so that the writer himself has concluded apparently that there has been already in the experience of the United States a failure of a differentiated Bar, and he thinks a failure of a unitary Bar; and yet, as I read his conclusion, he advocates a differentiated Bar, by a differentiation not of function but a differentiation of education. Though in answer to one of the critics he has said that he has been misunderstood, I think if you will all carefully read that conclusion you will share with me the view that he misunderstands.

Now, as I take it, he advocates a differentiation of the Bar not through differentiation of function, but through differentiation of education, and then he thinks that the function will graduate according to the education. But what does he do in the interest of democracy?—and democracy, as I understand, lies at the foundation of his conclusion. He advocates a distribution of

education according to what he conceives to be a class in the community, so that it will tend to the perpetuation of class instead of the distribution of democracy, and he says "We have it now," because the rich get the good lawyers and the poor get the remnant. And what is the remedy that he suggests? He suggests two,—one, that you should distribute your requirements according to the various institutions trying apparently to elevate slightly the standards of both, but not invading the province of one by elevating it to the standard of the other. And then, most curiously of all, he advocates what seems to me the least democratic and the most snobbish proposition that could possibly be advanced, that there should be the cultivation of snobbishness—although he does not use the word—in the profession by having bar associations confine their membership to those who are educated according to the highest standards.

I do not know anything which in my judgment would be more destructive of the influence of bar associations and more destructive at the same time of the democratic principle upon which he bases his conclusions. There was a statement made here yesterday which it seems to me unfortunately used the word aristocracy, because aristocracy has an unfortunate connotation. I attended the commemoration a day or two ago of one the most advanced institutions of learning in this country, its commemoration day, and I heard the president of that institution express the same idea, in different terms. Recently I came across, in reading an edition of a book of the Second Century, the phrase "tyranny of names." It seemed to me one of the happiest phrases to crystallize an idea. We are under the tyranny of names when we use the term "aristocracy" in reference to intellect. But we are not under the tyranny of names when we use the other, and it seems to me better-chosen phrase, that I heard two or three days ago, that indicated the real danger of this republic in the face of this democracy, and that is the submergence of the few in the interest of the many. And what few? The submergence of the intellectual and the educated few before that tyranny of the word, misunderstood, democracy. It is to the interest of democracy that it cultivate and maintain an educated few that they may be guides and leaders.

One or two things have come into my hands in the last few days, and one of them I think forcibly illustrates the opposition movement to that which we are undertaking. It is an advertisement of a school in New York. It starts out with this false statement of fact. It indicates that the first thing you have to combat in the public interest is a misconception of what you are after, because it says, in holding out a bait to those whom it wishes to enter in this preparatory school, "Recently the American Bar Association passed a resolution requiring the law schools to admit only such students who have completed four years at high school and who have also graduated at college." So this misrepresentation has already begun to operate as a bait to deceive the boys who cannot understand and cannot get information from the proper sources.

Now I have listened to what has been said here, and for the purpose of conciseness of expression and not to wander from the subject, I have reduced to writing two thoughts that I will present to you:

The first has to do with an attempt to analyze the views that have been expressed and are continually being expressed from different sources, and I find that those views fall into four categories, and the first category looks at it from the standpoint of the individual. I say four. Two great categories. The first great category looks at it from the standpoint of the individual, in my judgment, an entirely mistaken category. The second looks at it from the standpoint of the public, in my judgment the proper method of view.

Each of those two is subdivided, and of those subdivisions and an attempt on my part to characterize them I will now read. But first let me say a word in regard to my own personal experience. I am neither a graduate of a college nor did I take a three years' course at a law school, although I think in both respects I acquired an equivalent education. Whether that is so or not, I have been trying to educate myself from that day to this, and expect to continue the effort after I get down from this platform.

So I do not allow my individual experience to determine from favoring the recommendations of the wisest heads in the American Bar Association. I was not required, but far more I was not initiated into these prospects or these possibilities, and I

lament the fact, because when I came to the Bar no such advice was given to the aspiring student. It is only the developments of recent years that have indicated that somebody who knows should tell the law student what he ought to do in order to assume the responsibilities thrust upon him.

In relation to the subject before this Conference there are four views which may be advocated. The first emphasizes the interests and the desires of the individual applicant for admission to the Bar. This view moves along the line of opportunity. There are some people who advocate letting men in, whatever their fitness or lack of fitness.

The second group would require men to submit themselves to particular discipline laid down as the result of experience. Some say, and probably erroneously, that this is a division along the line of "Poverty or Wealth," but it is common knowledge that a poor man can get as good an education as a rich man. Of course there are some poor men who are deprived of that opportunity; but there are many poor men who are able to embrace the opportunity. The cleaveage can no longer rightly be considered as one between "Poverty and Wealth" or "Democracy and Aristocracy" —it is but a question of whether the applicant is willing to undergo the requisite discipline. There are many well-educated poor boys, and largely for the reason that so many opportunities are given to the poor boy willing to embrace them. The advocacy of the "poor boy" is really advocating the admission to the Bar of the boy who because of his poverty cannot fit himself for the job. It seems such advocates want the bars let down in favor of poverty and not in favor of ability. The question is: Do those seeking to support this contention give the superior place to disciplined, or do they give the superior place to undisciplined poverty?

The next group is one not dominated by the interests of the individual; its proponents rather emphasizing the interest of the public. This class has two general divisions; one group (a) opposes thorough preparation for the Bar because they conceive in their minds that the necessary preparation becomes the privilege of the wealthy. The ultimate outcome of this view is that it is against the public interest to require any higher education for members of the Bar; and the reason they urge is this: It com-

mits the error of assuming that only a rich man can get the necessary education to become a competent member of the Bar. They look further ahead than do the ones taking the individualist view, and state it would bring about a condition of social exclusiveness. But this group recognizes that the public has need of lawyers, which the group I first mentioned does not recognize. They contend the public has no such need. They think the Bar is simply some occupation by which some people can make a living, and they do not wish to deprive the poor of any opportunity to make a living.

However, the first group in this second category does recognize that the public has an interest in the education, training, character and efficiency of its lawyers; and they say, society cannot effectually be carried on without lawyers; and for that reason they think lawyers should be representative of every class in the community; that is, we should have, not educated lawyers solely—but we should have also poor lawyers, bad lawyers, uneducated lawyers; and they think they support their proposition by the statement "these men can speak for the classes from which they come." Is not this equivalent to advocating that an ignorant man should have an ignorant man to "represent" him as a lawyer. Their view must take that form if baldly stated. They themselves might not accept this statement of their views. They might urge that well-educated lawyers must of necessity come from what is styled "the aristocratic class"; and they conclude "therefore, the public needs would be warped in their solution by this single class in the community."

The fourth class recognizes that the public has a vital interest in its legal class. They recognize that the legal class performs two functions; one, that of representing clients; and, two, the function of guiding community growth along proper and rational lines. These think—and quite correctly—that to perform both functions or purposes it is undeniably in the public interest that lawyers should be well educated men. Uneducated men, men of immature minds, men of bitter prejudices and men of class animosities are unsafe guides of a community, as well as unsafe representatives for their clients. Their judgments are warped; their vision is narrow; they are too apt to act along lines of prejudice and in ignorance of historical precedents.

Hence, it seems established rationally, that the community needs the best attainable; but it should not prescribe requirements that would defeat its own ends by so limiting the number of men admitted to the profession that they could not perform the public function that devolves upon them. Standards should not be placed so high that the number attaining to membership would be limited so they could not perform the functions of the Bar. Anything short of that is, in my judgment, in the very best interests of the community; and it is axiomatic that you cannot have lawyers too well educated.

Chairman McAdoo:

There are three important topics to be discussed, and I find that there are only 75 minutes remaining. The Chair therefore suggests that an allotment of 25 minutes be made to each one of these topics. I hope this is agreeable, and unless there is objection we will proceed upon that theory. I hear no objection and so we will allot 25 minutes to the discussion of each of these topics. The next topic is the failure of the law office to give an adequate technical education.

The following paper prepared by George E. Price, of West Virginia, was then presented:

The question which I have been requested to discuss is whether an adequate legal education can now be obtained by a student in a practicing lawyer's office. What I have to say upon this question is, of course, largely the result of my own experience and observation; in fact, a man can only discuss matters of which he has had some personal knowledge and experience.

It is well known that many lawyers of the past generation and quite a number who are still living and in practice, obtained all their legal training prior to their admission to the Bar, without having the advantages of a law school. This is so in my own case. My whole training for the Bar was obtained by study under a great uncle of mine, a retired lawyer, a man of culture and learning of the old school. He had little to do except to direct my studies and quiz me upon what I had read, and discuss with me the legal and fundamental principles involved. Whatever success, therefore, I have had at the Bar, has been attained without the advantages of legal training in a regularly consti-

tuted law school—and this may be said also of a large number of the most eminent lawyers of the past in this country. Therefore, it cannot be denied that, as applied to the past generations and to those still living who were trained 40 or 50 years ago, it was possible to obtain adequate legal education in a lawyer's office or under private tutelage.

But, times have changed, and the methods of education in all lines have changed with the times. There have been, perhaps greater changes in the laws and in the methods of acquiring legal knowledge than in almost any other profession or avocation.

I studied law in Frederick City, Maryland. Frederick City was a substantial town of 12,000 or 15,000 inhabitants, located in one of the richest and most beautiful agricultural sections of the eastern part of the United States. It had a strong, well-educated Bar—if I should mention the names of some of the lawyers at that time, they would be recognized as leaders of the Bar of the country. As I recollect it, the legal business at that time consisted mainly of the settlement of estates, preparation and construction of deeds and wills, occasional actions involving land titles, actions of trespass and other torts including a few personal injury suits, suits relating to commercial contracts within what would now be considered narrow limits, and the usual limited criminal practice such as exists in that kind of a community. There were several law students or clerks in the lawyers' offices. It was the habit of all the lawyers to attend the session of the court at least part of the day. They frequented each other's offices, and met each other in the clerk's office or gathered in groups in the court house square in good weather. All took an interest in any important case that was pending and the questions involved, as well as politics and governmental affairs, were discussed. Forensic oratory was cultivated and elaborate arguments were permitted and were indulged in both before the court and the jury. The students in the law offices got the benefit of these free discussions of important questions of law, and of the dominant political issues and constitutional principles by men who were thoroughly competent to discuss them and who had sufficient leisure to enable them to keep abreast of the times. In those days the average lawyer had the

time and he made it a part of his practice, so to speak, to supervise the studies of the law student in his office.

In those days there were no stenographers employed in law offices. The typewriter was almost unknown, as I recollect it, and the pleadings and deeds and legal papers were written out in long-hand, either by the lawyer himself or by the clerk in his office. In this way the clerk or student got the benefit of the actual preparation of legal papers.

The lawyer was a man somewhat apart. He was a public man, a servant of the public in a much larger sense than he is today. He was recognized as a leader and adviser of the people not only in legal matters, but in all public matters and he rightly regarded his position as one of great responsibility.

So it will be seen from what I have said, that it was possible for a student in a law office not only to obtain an adequate legal education, but to acquire the spirit of the law and absorb the higher sentiments of the leading men in the profession and in the community. He was educated, not only in the principles of the law, but he could get the spirit of the American lawyer of that day; and this he could get in almost any community in the different states of this union. I, of course, can only speak of Maryland, Virginia and West Virginia; I know this was the situation in those states for the period succeeding the Civil War and up to 1875.

But there have been great changes in this country and in the world since those days. Of course, the courts had before them at that time many questions growing out of the Civil War, the readjustment of the rights of the states, and other great questions. But there was then but little development of corporate organization, such as we know it today. This phase of business developed rapidly, however. Its most important phase was the development of the great railroad corporations, their predominant influence in business, and their attempts at the control of political affairs, their discriminations between individual shippers and between different communities in the matter of rates and shipping facilities. This led to the agitation of the control of the railroads by the state, and the general government. It led to the discussion of questions of Interstate Commerce, of the powers of the general government as compared with

the powers of the states in the regulation of railroad traffic. Laws were passed for these purposes and there was great litigation over these questions; and finally the law took the form of providing for railroad commissions, and the Interstate Commerce Commission was created by the federal government, and the different Public Service Commissions were created by the states. These commissions were given control not only of the railroads, but of all other public service corporations. The questions as to how far the legislature could delegate its powers to a commission of this kind, and what was the scope of the powers of these commissions, and how far their decisions were binding, engaged the attention of the Bar and the courts throughout the country.

Then the great development of the wealth of the country led to the concentration of it by corporate organizations into what were known as the great industrial trusts. The word "trust" took on a new meaning, it really represented a feeling of "distrust" in the eyes of the public representatives in Congress and in the state legislatures. The great combinations were legislated against and the courts were called on to define their limitations and their activities or to dissolve them.

With the combinations of capital came, on the other hand, great combinations of labor often led by radical leaders attempting to enforce their demand not by means of the courts or other agencies of the government but by their own power—by strikes, tying up the great industries in which they had been employed, refusing to work with any one not a member of the union and producing a condition of terrorism by violence and destruction of property. Thus arose an attitude of antagonism on the part of the labor organizations against the organizations of capital. Out of this came what is known as collective bargaining.

The legislatures and the courts have had to deal with this troublesome and dangerous situation. How far can these combinations be controlled by law? Is the organization liable for the acts of its members? What control have the courts over these matters? How can these collective bargains be enforced? Is compulsory arbitration possible?

There has also been established by law what is known as the system of Workmen's Compensation, doing away to a large extent

with actions for personal injuries received by men in the course of their employment.

Within the time under discussion the gas engine has been invented, making possible the automobile and the aeroplane, also the great development of electricity, chemistry, the telephone, wireless telegraphy and many other inventions which have almost obliterated space and brought communities and the nations of the world closer together and making for better living and higher standards of all kinds.

Out of all these and many other things that might be mentioned in the economic world, has grown up an immerse body of law unknown 50 years ago. This astounding expansion of the law has made it necessary for lawyers to acquaint themselves with a thousand things that the man of a past generation knew nothing of. The new statutes governing these questions fill many a volume, and the decisions of the courts have accumulated in such a way that it is impossible for anyone to keep in touch with them by anything like original investigation. In 1870 there were only 60 volumes of the Virginia Reports, covering nearly 100 years, now there are more than 120; West Virginia had five volumes, now 88; the Reports of the Decisions of the Supreme Court of the United States at that time were contained in 80 volumes, now there are 254; and this expansion has taken place to an even larger extent in many of the states of the union. So great has been the increase in the statute laws and in the law reports, that it has led to a large number of compilations so as to bring the body of the law within the reach of the practicing lawyer. Every lawyer is now familiar with the "American Decisions," the "American Reports," the "American State Reports," the "Lawyers' Reports—Annotated" with its several series; the compilation known as "Ruling Case Law" and "*Corpus Juris*," the various encyclopædias of law and procedure in pleading and practice; the digest and Annotated Reports; in addition to the Reporter systems covering the various sections of the United States. None of these existed or were needed 50 years ago.

I have endeavored in this brief way to indicate something of the scope of the labors and the field of the activities of the modern lawyer.

He is no longer a man apart; in fact, he is merely an integral part of a great moving system. To be effective he must keep in touch with these rapid developments, both in the economic and political world and in the field of the law. He is obliged to keep up some knowledge of the trend of the decisions of the courts. He no longer employs a mere clerk or student to prepare his papers. He dictates his papers to his stenographer and they are reproduced, and manifolded, upon the typewriter. He has but little time for anything else during his office hours except business; that is, if he is a competent lawyer and has attained to any responsible success in his profession. If he has not, then he could not make a very satisfactory tutor or instructor of a law student. He no longer sits in the chair in front of his office and discusses politics and public affairs. He no longer resorts to the court house and listens to the trial of cases in which he is not interested. When his office work is done, he seeks recreation in his automobile; his family demands that he take some part in social activities. There is no chance for his giving any attention to the training of young men in his office for the Bar. Instead of having a young man prepare his legal papers, it is now done by a smart young woman who has no aspirations for the Bar.

Now, what is the result of all this. The result has been the building up of law schools in almost every state in the country, the gathering of the young men who are studying law into the universities where they can give their whole time to the study of the law under highly educated and trained instructors specializing in the various branches of the law, and giving them the benefit not only of the fundamental principles of the common law as it was 50 years ago, but also of the developments which have taken place since then and of the trend and tendency of modern legislation and constitutional government calling attention to the latest decisions of the courts, and especially developing and analyzing the great fundamental constitutional principles upon which this free government of ours is founded. Thus, by the association with other young men from various parts of the country, by the influence and training of cultivated, patriotic lawyers directing their attention to certain specialized branches of the law, the young man is able to acquire such a legal education as will fit him for the strenuous, exacting duties of a practicing lawyer in

these modern days; and in no other way can it be obtained, in my judgment.

The result of what I have said is that the practicing lawyer who amounts to anything has not the time nor the inclination and is not competent to give to a law student in his office, adequate legal training. He is not competent because it is impossible for any lawyer nowadays to acquire and keep in mind a knowledge of the development of the different branches of the law so as to be able to impart it to others. We are obliged to specialize more or less, even where we have a general practice. We have certain classes of clients, and our attention is directed along certain lines. We become proficient in corporation law, in the law relating to railroads, in admiralty; or with us in West Virginia, in that branch of the law relating to the development of our coal mines, our oil and gas territory, and these things constitute almost a branch of the law of themselves. We must study the law of electricity and railroad law. Questions of Interstate Commerce are pressing upon us in our State of West Virginia constantly. Consequently, if the lawyer is engaged in practice along these lines, and he is employed in a case of a different character, he is obliged to go to work and revise his studies upon the new questions and ascertain what have been the more recent decisions governing it. It is not sufficient to go back to Kent, and Blackstone, to Chitty, and Greenleaf on Evidence; and he has not the time to keep up a comprehensive knowledge of all the branches of the law. But, in the law schools the different professors take different branches of the law, and the students have the benefit of their specialized knowledge. This immensity of the law reminds me of the old incident of the young fellow in Alabama who applied for admission to the Bar. The committee that was appointed to examine him, quizzed him for some time before dinner, and then after dinner when they were about to resume, the young fellow told them that he had made up his mind not to go any further with it. When they asked him if he was going to give it up, he answered, "Yes; the law was very easy, but there's too damned much of it." If that was so in those old days, how much more is it true today?

I have mentioned before the manifest advantages of a student who has had the benefit of training in one of our great law schools, as over one who had the kind of training that one gets in a law

office. These young men come back after their three or four years' course in the universities with a comprehensive view of the law and especially with the training that enables them to find out what the law is and go to its sources and analyze, and brief it. They can do their work much more easily and accurately than the lawyers of the old days.

The conclusion, therefore, is inevitable; that it is now almost impossible for a young man to acquire an adequate legal education simply as a student in a law office; but the provisions that are made for education in the law schools in nearly every state in the union, the facilities for travel, and the helping hand that is always held out to the worthy young man, render it possible for almost anyone to obtain the necessary legal training under competent professors in these schools. And very few who have the mental and moral qualities necessary to make real lawyers will be prevented from obtaining admission to the Bar by the requirement of a reasonable course of training in a law school.

Chairman McAdoo:

Attorney General Wickersham will introduce the discussion, and it gives me great pleasure to introduce a former distinguished Attorney General of the United States, George W. Wickersham.

George W. Wickersham, of New York:

I confess I am somewhat at a loss to know how to discuss the subject which has been presented by Mr. Price, "The Failure of the Law Office to Give Adequate Legal Training." The statement of the topic involves a recognition of the failure of the old system of legal training. The rapid increase in the number of law schools and in the number of students attendant upon them is in itself proof of that failure.

Is not the cause of this fact to be found in those changes referred to by Mr. Root in his address to the American Bar Association at Cincinnati, when he said:

"The vast multiplication of text-books appointed reports of adjudicated cases and of statutes, has been already so great and is proceeding at such a rapid rate, that it is plain that the study of the law and the knowledge of the law and the application of the law today are widely different from anything that existed 50 years ago."

Historically, in England, office instruction was confined to the apprenticeship of solicitors' clerks. Several years drudgery in an attorney's office was necessary before one could become a member of that branch of the profession which dealt with the mechanical or business phases of legal matters. The Bar—that is, those entrusted with the conduct of causes before courts and the giving of legal opinions on questions submitted by solicitors composed of the members of the Inns of Court was recruited nominally from those in reading law in the office of the barrister. The real work of preparation for the Bar came after admission by constant attendance upon the great legal clinics—the courts. As a rule, by force of tradition and class distinction, those who were admitted to the privilege of reading law with barrister were university graduates—gentlemen. Their actual legal training was acquired by service as devil or junior counsel and by observation acquired through attendance upon the courts.

In the early days of our republic prevailing conditions made impracticable the separation of professional work between solicitors and barristers; there wasn't enough work to justify such a partition of effort. And the method of qualifying for the Bar naturally was through the office of a practising lawyer. In general this was unsatisfactory. Joseph Stone has recorded his experience in the office of Samuel Sewall which he entered in 1798. He was thrown on his own resources and attempted to read Coke on Littleton with Butler and Hargraves works. "After trying it day after day with very little success," he says, "I sat myself down and wept bitterly."

William Wirt, after a perfunctory examination, was admitted to the Bar a "a full-fledged" lawyer, with limited knowledge of the law, no particular resources, and a small but characteristic library, consisting of a set of Blackstone, two volumes of Don Quixote and a copy of Tristam Shandy.

That these men overcame the obstacles of imperfect unsystematic instruction, only demonstrates their extraordinary capacity to grapple with any adverse condition and to compel success at any cost.

The success or failure of a law office training depended upon the lawyer and the character of his practice. If he were a conscientious preceptor and took the time and pains required to

guide the student and supervise his studies and if his practice enabled him to use the student in the preparation of his cases and in the incidents of court work, the result might prove fairly adequate. But I think the greatest value a student got from the law office method was the inspiration of association with some great and inspiring personality.

After all, more important even than education in the learning of the law is the formation of character and the development of standards of personal and legal ethics which require no teaching of artificial codes of conduct, but which develop an instinctive knowledge of right and wrong, rendering impossible the toleration of any conduct that is not straightforward and honorable.

Such standards are best acquired through association with honorable and respected men. Such association is as necessary in a law school as in an attorney's office. It was the personal character of Ames and Gray, Thayer and Jeremiah Smith—to speak only of the departed—quite as much as the superior method of instruction, that made the Harvard Law School pre-eminent. It was the character of E. Coppee Mitchell and Judge Thayer, professors at the Law School of the University of Pennsylvania, that made a deep impress upon the students of my time who came under their influence.

The law schools became necessary because the growth and complexity of modern law made it impossible for a successful practitioner to give the time and attention to his students necessary to fit them to enter upon the profession when so much more was required than had been the case in earlier years. But the success of the law school will be determined, not merely by the scope of its courses or the thoroughness of its instruction, but by the character of the teachers. They must be able to inspire their students with the highest professional ideals and the most simple unswerving principles of right living. Mere learning or cleverness will not suffice. The universities must seek men of inspiring character for their professorships, those positions in which great and far-reaching influence may be exerted upon the young men of succeeding generations.

As I have noted, by tradition, the English Bar largely was recruited from graduates of the universities. What tradition effected in England, the influence of the Bar must compel in this

country. An increasing number of uneducated men are crowding into the legal profession in our large cities. I cannot speak from knowledge of the rural communities. But the rules in my own state, applicable to all portions of the state, permit entrance to the profession by men with ridiculously slender qualifications. The law would soon cease to be a learned profession were these standards to be maintained. No other country in the world permits men to become lawyers with such a meagre educational foundation as is fixed in the statutes and rules of the greatest commercial state of our union.

It is high time the American Bar organized in defense of its best traditions and moved towards a reassertion and reestablishment of its best ideals.

During the last seven years and a half I have served as a member of the Committee on Character and Fitness appointed by the Appellate Division of the Supreme Court in the First Judicial Department of New York. Our state is divided into four judicial departments and the first embraces the counties of New York and West Chester. That is the division into which, by far, the greater number of the students who apply for admission to the Bar, make their application. I have not the figures here, I wish I had, to tell you how many men have come before that committee. But I can generalize, without speaking accurately, as to figures respecting the problems that we have had to deal with. I listened with interest to Mr. W. B. Hale, of Chicago, yesterday, as he spoke of the difficulties that the Illinois Committee has to deal with. I presume our problem is worse than that of any other part of the United States because, of course, into New York comes streams of immigration from all parts of the world. In the first place the reasons for leading men to endeavor to become lawyers are interesting. In probably 90 per cent of the continental born who apply for admission, the motive is the effort at social advancement or preferment. In the country from which they come the advocate occupied a higher social position than his fellows. Therefore, quite naturally and quite commendably, their parents inspire them with the desire to advance in the social scale, and they catch at the idea quite quickly, and the easy way to get on and become an advocate is to follow the disgracefully easy path open by the statutes and the rules of

court in New York to enable men to become lawyers. They are not required to have a college education, they are required to pass an examination in certain subjects, an examination conducted by the state university. The theoretical requirements are ridiculously low, and in the method of carrying them out we have had strong reason to seriously complain. Then they go to some part-time law school. The less education they have the more they seek the law school that offers them the easiest method of qualifying for the Bar. And for a long time the Bar examiners appointed by the Court of Appeals confined themselves largely to requiring the exercise of feats of memory and many of these men have extraordinarily acute and retentive minds and they can learn any arbitrary rule that is laid down for them. I am happy to say that recently the situation of the Bar examiners has been changed and we now have a body of young men fully alive to the needs of the situation and desirous of cooperating to the fullest extent with the local authorities in making the examination for admission to the Bar a test, not merely of memory, but of the reasoning faculties.

Now there are one or two things that very notably impressed themselves upon us. Most of the men who come from the Continent of Europe, and that is largely those who come from Russia and Poland and Austria and Southeastern Europe—very few come from France and comparatively few from Germany, that is, from Germany proper—most of those men, and I speak now of what we had before us up to perhaps six months ago, and before the new committee of Bar examiners had really got set, taking the examination in two parts, the examinations are divided into examinations in substantive law and examinations in adjective law. Generally those men passed the examination because of the arbitrary rules which they can memorize, such as laws of procedure, laws of evidence, statutory requirements. They pass those examinations the first time. They seldom pass an examination in substantive law the first time. They take one, two and sometimes three examinations in substantive law. My associates and I have been convinced that in a very large percentage of the cases they never get through their heads a conception, an adequate conception, of the spirit and meaning of the English law which underlies our system. They come from a

different environment, they are products of a totally different system of thought and training, and they never do come into full realization of the meaning of our law historically, the history of its growth, its development and its significance, and it is an appalling thought to think of some of those men coming, as they do, and getting into political life, coming ultimately to be judges and interpreting the law, becoming legislators, making and altering the law, to think that those men, with their imperfect conception of our institutions, should have an influence upon the development of our Constitution, and upon the growth of American institutions, is something that I shudder when I think of.

This condition, undoubtedly, is worse in New York City than it is in some of the other places. But I have no reason to think it is much better in the rural communities. I have no reason to think that things are materially better there than they are here. Now, how are we going to combat it? The law office instruction has, as has been stated in this topic, proved a failure. We must insist, at all events, upon a basis of general education adequate to our needs upon which to build, fulfilling the requirements of professional instruction, and then we must see that so far as possible the organized law schools model and adapt their courses so as to give the best possible professional education to men coming on to the practice of the law, and I, for one, have no fear of requiring a three years' course in a law school, because these very men that I speak of are the ones who will get that education. They get through now on the minimum requirement; they will always manage to secure the minimum requirement, but in the process they too will be modified, and they too will be improved in the final hour.

Chairman McAdoo:

I have pleasure in introducing Thomas Patterson, of Pennsylvania.

Thomas Patterson, of Pennsylvania:

I trust I have your sympathy, because I was asked to come here to present certain views against the resolutions of the American Bar Association, and in addition to the unpleasant position of being *advocatis diablo* I am also limited to seven minutes. Therefore I shall satisfy myself with a statement of my position.

I conceive it the right and the duty of the court and Bar to insist upon certain qualifications before a man shall enter upon the public profession of the law as a practitioner. I deny their right to determine the means by which he shall get those qualifications, unless there is some reason so absolutely persuasive and overpowering as will necessarily lead to that result. Then I say that the man without the means, without the possibility of pursuing a college course or law school course, has the right to prepare himself in his library and his office for admission to the Bar and to practice law and to get not only the professional emoluments that come from such practice, but those positions of public trust to which the profession of the law is the opening door.

Now, just why is it that you believe the law school has this priority over the office lawyer? Certainly not from the history of the past. A Bar that has had a Gibson and a Shaw and a Jeremiah Mason needs no apologies to the Bar of today as to its ability, and today practicing at the Bar are men without these qualifications of as high standards and as much knowledge as any graduate of law schools.

I am going to quote some figures, taken from the records of the State Board of Law Examiners. I may say that I have been a member of this board for 15 years.

One law school—I shall not mention its name—has a most wonderful record. From 1905 until 1915 only 1.5 per cent of rejections occurred, and since 1915 only 7 per cent. Then those figures drop as we come to the inferior law schools until we find 60 per cent of rejections. In the average law school—this is taken from all sources—42 per cent failed upon the first trial.

Now, of your office men, 33 per cent failed. In other words, those who come from the office are apparently about as well prepared so far as the examination is concerned as the average that come from the law schools. But so far as the very interesting thought Mr. Root gave us of the great moral benefit gained by college training, may I suggest that that is not by any means certain, that there is good reason to believe that in many of the universities radicalism and socialism is very widespread. I know it is so in certain colleges. I have sat on the platform of a large institution where there were 6000 undergraduates and I have

looked at their thin faces, their undernourished bodies, their heavy expressions, I have turned and said "How many of these students are studying the classics?", and the reply was about a hundred.

In closing, may I suggest to you that this is a subject in which we are all equally interested. If you have boards of examiners, trust them and insist on their efficiency. If the requirements should be higher, make them higher; but most of all make your preliminary examination include the classics, because my experience, connected as I have been with the profession and as a professional examiner for six years, has been that there is a heavy, persistent urge to take the classics out of the preliminary examination for registration, and although the law school becomes and is becoming, in the natural course of competition, almost an exclusive training school, the student also should be required to register with a reputable practitioner in order that his life may be known. Nothing is less known than a man who attends a foreign law school and comes back with his diploma. But if he is required to be registered with some man of repute and if he is required to pass the examination in this great mental and moral training of the classics, I think the question will answer itself and the improvement will come. I thank you for hearing me.

Chairman McAdoo:

The next topic is "The Part-time Law School and its Place in Legal Education." This topic will be introduced by Mr. Frank H. Sommer, of New Jersey.

Frank H. Sommer, of New Jersey, then read his paper:

Hesitation, due to a keen appreciation of the difficulty of the task, marked my acceptance of the invitation to present in the brief space of 15 minutes "The place of the part-time law school in legal education."

Hesitation was, however, overcome by the manifestation of faith, implicit in the invitation, in the power of intensification in exposition developed through instruction in a part-time law school.

It will be my effort to justify that faith. In doing so I shall refrain from disturbing the peaceful rest of the beloved Lincoln which was so frequently broken in upon yesterday.

At the outset it should be said that the views here expressed are personal, and are not to be taken as representing or reflecting the opinions of my colleagues in the faculty of the school from which I come.

The place of the part-time law school in legal education is that of an institution which affords an opportunity through systematic, supervised study, to acquire that thorough and rounded equipment in knowledge of the principles of technical law and the ability to apply such knowledge, which is essential to, and without which no one should be entrusted with, the discharge of the functions of a lawyer, advising, with the sanction of the state, as to legal duties and rights involving life, liberty and property.

It is an institution which, in offering this opportunity, must, if it properly fills its place, stress not merely the function of logic and of precedent, but lay equal emphasis upon the fact that law is not an end in itself, but a means to an end, and that expediency does and must play a part in its development both through adjudication and legislation; that law is not "inspired dogma" but "an instrument of progressive social engineering."

It is an institution which, in affording this opportunity, must, if it properly fills its place, so conduct its work as to sink deep the roots of conviction that the practice of law is not a trade; not merely a profession, but a public profession.

I readily assent to the natural suggestion that this is the place of any school of law worthy of the name and whose goal is not merely to enable its students to meet the test of examinations for admission to the Bar, which in general are too low in the standard set.

Insofar I recognize no distinction between the place of the whole-time and that of the part-time school in legal education.

The whole-time and the part-time schools recognize, equally, that the law is a social institution; that it governs, and bears alike on all within the community, and that the formulation and development of law is consequently of equal concern to all; that such formulation and development must not be in the interest of any special class; and that in such formulation and development the interest of the whole must steadily be kept in view.

The part-time school because of these considerations, however, insists that conditions for entry into the ranks of those to whom

the formulation, application, and development of the law is entrusted shall not be set at a point that, irrespective of capacity, confines admission to the well-to-do.

It is in view of these considerations that the part-time school consciously arranges its classroom hours so as to admit of carrying concurrently the task of providing a livelihood and the systematic study of law.

This course is not inconsistent with the setting and maintenance of high standards.

It is dictated by the considerations stated and by them alone, and is not prompted by considerations basely commercial.

Though there may be those among them who have sinned against the light, the record of the part-time school in general supports these statements.

The part-time school has not been a laggard in the movement to bring about the setting of advanced standards for admission to the Bar by legislatures and courts.

In one state the advance in such standards is attributable almost wholly to the persistent and for a long time highly unpopular efforts of an instructor in a part-time school, whose answer to sentimental and demagogic pleas made to defeat the accomplishment of his purpose, was to point to the existence of the part-time schools and the opportunity afforded by them.

Not infrequently, too, the part-time school has boldly, ignoring financial considerations, advanced requirements for entrance and graduation beyond those set by the state for admission to the Bar.

In the light of this statement of the purpose of the part-time school and the attitude that it has assumed in the past on the question of advancing the standards of legal education and requirements for admission to the Bar, I confidently anticipate ready acceptance and support in principle, if not in detail, by those who are interested in the part-time schools, of the proposals of the American Bar Association and of the movement now under way to effect these proposals.

The proposed requirement of two years of study in a college in no way contravenes the principle on which the part-time law school rests and upon the maintenance of which it insists.

The inevitableness of this requirement some of the part-time schools have long recognized and have, without awaiting action by the state, provided for putting it into effect.

The effective study of law in the stage it has now reached, replete with the complexities and perplexities which mark a period of transition in which community interest is displacing individual interest in the spot-light of juristic thought, requires a broader and deeper background of fact, knowledge and cultural training than is afforded by a high school course.

That a wider and more definite acquaintance with English and American history, in particular, and of world history in general, the social and political sciences, social ideals and aspirations as expressed in literature, and with the processes of business than can be acquired in a high school course is, in this day, requisite to the effective study of law, one, who has struggled to teach graduates of high schools the principles of constitutional law and the principles of law relating to certain phases of social relations and business transactions, must readily concede.

The proposed requirements raise a necessary barrier to entrance of the unfit and inadequately trained into the profession.

This barrier presents, under present day conditions, no insurmountable obstacle to the man of average capacity unblessed by command of an overplus of this world's goods.

Colleges and junior colleges maintained as a part of the system of free public education increase in number.

A broader base of endowment for colleges not publicly maintained admits of a more liberal attitude in the grant of free and partially free scholarships to men of capacity.

In the great centers of population the part-time college is finding itself, offering an opportunity to carry along, simultaneously, work affording a livelihood and the pursuit of a college program.

The rise of the part-time college does not foreshadow the advent of an era of lowered standards of collegiate training.

It marks the dawn of a day of recognition of the need of adjusting educational programs so as to extend the opportunity to acquire advanced education to all who may be advantaged thereby.

Its rise marks a step forward in the "American experiment of government by the people through enlightenment of the people."

Years of experience have fixed, broadly, the content and limits of the college program; the methods of conducting it; and have established the average time demanded in thorough preparation of required class-room work.

It is upon this basis of experience that the typical college program extending over four academic years is framed.

Its mastery calls upon the student of average capacity to devote to that end substantially the whole of his working time, making reasonable allowance for those activities which are required to cool the warm blood of youth.

It follows then that the program of the part-time college substantially identical with that of the whole-time college must be, as it is, spread over a longer period of time.

The place of the part-time law school in legal education is identical with that of the part-time college in the system of general education.

Unqualified assent cannot, however, be given by the part-time law school to the proposal that every candidate for admission to the Bar should give evidence of graduation from a law school which requires its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in number of working hours, if they devote only part of their working time to their studies.

Unqualified assent to this proposal by the part-time law school requires preliminary consideration of certain factors in the law school problem and definite action with respect thereto.

A survey of the programs of instruction of the schools of law classified as whole-time schools in connection with Mr. Reed's admirable study—"Training for the public profession of the law," fails to reveal agreement as to the number of class-room hours per week thorough preparation for which will require substantially the whole of the remainder of the working time of a student of average capacity.

The number of class-room hours required by these schools rises from 12 hours per week. The variance is wide.

Some impose the requirement of prescribed collateral reading and examination based on such reading.

Some permit the taking of hours of class-room work in excess of the required number of hours.

Some permit the simultaneous carrying of other than technical legal subjects.

These considerations, together with my experience at the Bar and as a law instructor and particularly my observation of the results of an experiment in intensifying work in legal training which was made necessary by conditions arising out of the war, raise serious doubt whether the prevailing program of the schools so classified as whole-time schools, in general, requires in its mastery that the student of average capacity devote substantially all of his working time to his studies, unless "working time" is to be measured by a standard which each student may set for himself.

This doubt has not been lessened by observation of the progress of students who, without change in working time conditions, have passed in good standing from schools classified as part-time schools to schools classified as whole-time schools and from the latter to the former.

Nor has it been lessened by observation of numbers of students in the whole-time schools who apparently find no difficulty in mastering the required program and at the same time satisfactorily serving a clerkship or pursuing more gainful occupations.

This doubt has been strengthened by the fact that students in schools classed as part-time schools which maintain a program substantially identical with the prevailing program of the whole-time schools, which set examination papers which compare favorably in searching qualities to those set by the whole-time schools; papers judged by instructors trained, in many instances in whole-time schools; have in great numbers mastered the program without devoting "substantially all of their working time to their studies."

Consideration has resolved the doubt into conviction that the prevailing law school program does not demand in its mastery that the student of average capacity devote substantially all of his working time to his studies during a period of three academic years.

I am, however, also convinced that a program adequate to prepare for efficient practice of the law under the conditions of this day and of the future will require that the man of average capacity devote to its mastery substantially all of his working time through three academic years.

If I am not mistaken in this conclusion as to what is and what should be, it follows that the standards set in examinations for admission to the Bar must be radically advanced and made a test of the successful pursuit of a course of studies which makes this demand upon student effort. It further follows that the prevailing program in whole-time and part-time schools requires revision.

Since, by the admission of all, the house of the law needs setting in order, the readjustment should have that quality of thoroughness which differentiates the spring cleaning of the good housewife from that of the sloven.

With such a revision of the prevailing program the whole-time school will offer opportunity for adequate legal training to those students who are not under the necessity of engaging in other occupations and who are therefore able to devote substantially all of their working time through three academic years to the pursuit of their studies, and will in fact as well as theory uniformly demand of its students that measure of study; while the part-time school will offer a like opportunity to those, who, because of economic conditions, are compelled to engage in other occupations requiring a substantial part of their working time while engaged in the study of law.

The offer of this opportunity by the part-time school will then of course involve the spreading of the required hours of classroom work over a longer period of time than is covered by three academic years; the extended period being governed by the "free time" for study.

If the suggested revision of the tests for admission to the Bar, and of the prevailing program of instruction in schools of law is made, unqualified assent may be given to the proposed requirement.

The adoption of the suggestions made will, I submit:

(a) Advance the standards for admission to the Bar and measurably guarantee that the holder of the state's license to practice law is adequately trained to deal with legal problems.

(b) Raise the standards of both whole-time and part-time schools of law to a point that assures in greater degree than at present the turning out of lawyers fit to grapple with their problems.

(c) Produce a program of instruction that, shaking off the dead hand of the past, is adapted to present and future needs.

(d) Close the door of admission to the Bar to the unfit and inadequately trained, but throw the door wide open to the fit through the provision of facilities for adequate training adapted to the varying financial conditions of those capable of mastering these facilities.

Out of the conditions which will result from the adoption of these suggestions and through zeal to excel there will grow another and higher type of school of law—a school of law and school of jurisprudence combined—a combination that surely pedagogical vision can effect.

This school setting its admission requirement in advance of the requirement of two years of college work, will offer a program in law that in its mastery will demand substantially all of the working time of the student through four academic years; a program framed to equip for the practice of the law, and definitely for leadership in its formulation and development.

Out of the student body of this school may be expected to come teachers of law; authors of treatises on legal topics, not mere digests; from its ranks may be expected to be recruited men capable of performing the sadly needed task of simplifying and producing order out of chaos in the statutory law; to its graduates we may look to play an important part in the work of the rapidly multiplying administrative tribunals which are devising and applying a growing body of rules which have the force of law; from those it sends out, advice and counsel may be expected to be increasingly sought in litigation of social and economic import and in framing legislation to meet the social and economic problems of the new order.

To those who complete the work of such a school some distinction should be granted.

May I suggest that the admission to practice in any state of a man so qualified might well without more entitle him to practice in every other state; and that the rules governing admission to practice in the federal courts might well be revised so as to give

recognition in tangible form to such a degree of preparation for the practice of law.

Finally, need I say that in my judgment whether a school belongs in the class of whole-time or of part-time schools is not necessarily determined by the hours of the day fixed for class sessions, but by the demand in preparation which its program makes in actual execution upon the time of the student of average capacity.

I venture to hope, though mindful of the fact that I am merely your guest, that this Conference will approve the recommendations made by the American Bar Association in principle, but that it will at the same time insist:

(1) That the committee of the Association shall classify no law school as maintaining the standards prescribed in its recommendations without careful investigation not merely of the published program of instruction, but of the administration of such program as well, nor without requiring a statement as to the outside occupations and employments of its students and of the hours devoted to the same.

(2) That such committee shall not classify a school as not maintaining such standards without careful investigation nor without opportunity to the school to be heard.

(3) That in view of the inaction and lack of agreement upon the subject in the Association such committee permit the academic year 1923 to pass before it places the stamp of disapproval upon the work of any school and so afford a reasonable opportunity for readjustment.

And finally that such committee where the control of requirements for admission to the Bar rests with the courts, and the requirements for admission have been set lower than the standards now recommended, such committees give publicity to its disapproval of these courts like unto that disapproving publicity which it purposes to mete out to schools of law.

What is sauce for the goose is sauce for the gander.

Surely the responsibility that rests upon the courts is as great as that which rests upon the schools and Bar.

Public service, so forcibly stressed yesterday by the Chief Justice and by Mr. Root, in this connection, is not the obligation of the schools of law nor of the Bar alone.

It is equally the duty of the Bench.

Chairman McAdoo:

I have great pleasure in introducing Mr. Charles M. Mason, of New Jersey.

Charles M. Mason, of New Jersey:

Gentlemen of the Conference, I am a college graduate and I am also a law school graduate. At the present time I am dean of the New Jersey Law School. The greatest difficulty that we have had in that state has been with the courts. We have tried to have them make the time required in the law school four years. In the first place we have never been able to get them to require a candidate for the Bar to be a law school or a college graduate. He is eligible to examination by obtaining a certain number of counts. He is eligible to take the examination for admission to the Bar by spending three years in a law office. To a certain extent the time spent in a law office is a joke. I mean by that that the candidate for admission to the Bar is used as a runner, he is used for miscellaneous purposes, and largely for the reason that the salary to be paid him is very low. In some cases the old attorney tells the clerk that in his day he had to pay for the privilege of serving in a law office. We of the New Jersey Law School are willing to meet the requirements of two years. We think, however, it is merely a step. We do not feel that two years in a college, as most colleges are conducted and the courses that they offer, is going to cure the errors in the legal system. It is merely a step in the right direction, and that is all. We do feel, as a representative of a part-time law school, that the doors should not be closed to any class of American citizens. We do feel that the standard should be raised, that a high grade of American citizenship should be required of every candidate. We do feel that a high grade of scholarship should be required of every candidate; we do feel that a high grade of legal learning should be required. But we put the requirements back at the doors of the Supreme Court where it should belong and their requirement should be such that a candidate should show some evidence of being a scholar and a student.

Herbert S. Hadley, of Colorado:

I move that we suspend the printed program and that the next order of business be the production of these resolutions that we have heard so much about, but have not seen.

William Draper Lewis, of Pennsylvania:

As I am the next person on the program here, I want to say that I think that what this meeting wants is to have the resolutions that have been referred to produced so that every one will have notice of them and we can have, perhaps, some little discussion before one o'clock, and then the discussion can be continued when we meet this afternoon. I therefore second the gentleman's motion.

Chairman McAdoo:

I should like to make this suggestion, that I think it is very important, so far as it is practicable to do so, that we have a general discussion of these topics that have been discussed, and I would suggest, if it is agreeable, that instead of adjourning at one o'clock that we adjourn at one-thirty, which will give ample time for lunch, and be able to resume the session at two o'clock. Is that agreeable?

Mr. Lewis:

I so move, Mr. Chairman:

Chairman McAdoo:

I hear no objection, so we will adopt that course without putting it to the meeting. Now the Chair will entertain any resolution that you desire to present.

Mr. Goodwin:

I have been asked on behalf of the committee to present a series of resolutions which, so far as we are able to learn, appear to represent the sense of this meeting. I do not wish to debate them. I only wish to say that I think you will find within these resolutions an answer to many of the arguments offered here, offered with the thought that they were opposing the program as a whole. It is only to meet those suggestions that this resolution is put in the form that has been adopted. I think particularly with reference to the suggestions made by the gentleman from Tennessee, last night, that Article VIII of these resolutions fully meets the objections which he so eloquently made. I would like to say also a word upon the scope of this Conference. Some objections have been made which really do not go to any

suggestion of action here, or anything germane to the purpose of this Conference, but only relate to the propriety or impropriety of certain actions taken by the American Bar Association with which we have nothing to do. This meeting of the Conference is merely for the purpose of uniting the bodies represented in an effort to create conditions favorable to the adoption of the principles above set forth in the resolution. This is not a resolution that these rules be put instantly in effect, but it is presented as a means of creating conditions that will permit the different states of the union to put them in effect.

Without further comment, and with your permission, I will read the resolution:

Resolved, That the National Conference of Bar Associations adopt the following statement in regard to legal education:

1. The great complexity of modern legal regulations requires for the proper performance of legal services lawyers of broad general education and thorough legal training. The legal education which was fairly adequate under simpler economic conditions is inadequate today. It is the duty of the legal profession to strive to create and maintain standards of legal education and rules of admission to the bar which will protect the public both from incompetent legal advisers and from those who would disregard the obligations of professional service. This duty can best be performed by the organized efforts of bar associations.

2. We endorse with the following explanations the standards with respect to admission to the Bar, adopted by the American Bar Association on September 1, 1921:

Every candidate for admission to the Bar should give evidence of graduation from a law school complying with the following standards:

(a) It shall require as a condition of admission at least two years of study in a college.

(b) It shall require its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

(c) It shall provide an adequate library available for the use of the students.

(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

3. Further, we believe that law schools should not be operated as commercial enterprises, and that the compensation of any officer or member of its teaching staff should not depend on the number of students or on the fees received.

4. We agree with the American Bar Association that graduation from a law school should not confer the right of admission to the Bar, and that every candidate should be subjected to examination by public authority other than the authority of the law school of which he is a graduate.

5. Since the legal profession has to do with the administration of the law, and since public officials are chosen from its ranks more frequently than from the ranks of any other profession or business, it is essential

that the legal profession should not become the monopoly of any economic class.

6. We endorse the American Bar Association's standards for admission to the Bar because we are convinced that no such monopoly will result from adopting them. In almost every part of the country a young man of small means can, by energy and perseverance, obtain the college and law-school education which the standards require. And we understand that in applying the rule requiring two years of study in a college, educational experience other than that acquired in an American college may, in proper cases, be accepted as satisfying the requirement of the rule, if equivalent to two years of college work.

7. We believe that the adoption of these standards will increase the efficiency and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice. We therefore urge the bar associations of the several states to draft rules of admission to the Bar carrying the standards into effect and to take such action as they may deem advisable to procure their adoption.

8. Whenever any state does not at present afford such educational opportunities to young men of small means as to warrant the immediate adoption of the standards we urge the bar associations of the state to encourage and help the establishment and maintenance of good law schools and colleges, so that the standards may become practicable as soon as possible.

9. We believe that adequate intellectual requirements for admission to the Bar will not only increase the efficiency of those admitted to practice but will also strengthen their moral character. But we are convinced that high ideals of professional duty must come chiefly from an understanding of the traditions and standards of the Bar through study of such traditions and standards and by the personal contact of law students with members of the Bar who are marked by real interest in younger men, a love of their profession and a keen appreciation of the importance of its best traditions. We realize the difficulty of creating this kind of personal contact, especially in large cities; nevertheless, we believe that much can be accomplished by the intelligent cooperation between committees of the Bar and law school faculties.

10. We therefore urge courts and bar associations to charge themselves with the duty of devising means for bringing law students in contact with members of the Bar from whom they will learn, by example and precept, that admission to the Bar is not a mere license to carry on a trade, but that it is an entrance into a profession with honorable traditions of service which they are bound to maintain.

Julius Henry Cohen, of New York:

Speaking on behalf of the committee, as I have been delegated to do, I may say that it was the purpose of the committee not to project its own views upon this Conference, but to furnish the opportunity for the American Bar Association to present the views in support of the standards that have been approved by that Association, and to give the kind of discussion in this Conference that has taken place at all their meetings of the Conference of Bar Association Delegates. We keep in mind that we come here with no warrant to commit our associations, that many of the

delegates differ among themselves, that we are here merely, as far as we can, to aid in formulating public opinion of the Bar. With that in view the committee has invited, through the correspondence that it has received, speeches and addresses from all sides of the question. The subject is now before the house.

Before any addresses are made in criticism or in support of the resolutions that have been offered, I should like to direct the attention of the Conference to the language of the resolution. These resolutions have been drawn after a very careful discussion in the committee, and with the hope that they will secure the unanimous acceptance of this Conference. When you come to study the language of these resolutions you will see that the committee accepts nearly all of the propositions that have been advanced in negation of the resolution of the American Bar Association.

What are those propositions? The first sets forth that while we may have an aristocracy of education, an aristocracy of learning and a leadership in the community which the Bar may fulfil, that we cannot have a Bar that is open only to men of breeding, of inheritance or of tradition or men coming from only one part of the world. In that connection, may I say that I should find myself on the opposite side of these resolutions if there were any attempt at all to exclude the men of modest means or to exclude the son of the immigrant. And let me say at once to those who are here from the south and middle west and the far west that those who come from New York City and New York State have all made that qualification to Senator Root's address and to Mr. Wickersham's address this morning. One of the most distinguished teachers of law at one of the great faculties is a graduate of Senator Root's office, a trusted lieutenant of his when he was Secretary of War, and a son of one of these immigrants to which Mr. Wickersham referred today. One of the ablest young men I know in New York is a junior in a firm which now, by consolidation, has at its head one of the most scholarly, one of the most dignified men at the Bar, and one of the ablest men at the Bar. That young man won the Philipson Scholarship and is a son of a continental immigrant. Another has been the trusted associate of the man whom I believe to be the ablest constitutional lawyer in this country, and he will tell you that in his long career at

the Bar there was no man whom he would trust more, both on the intellectual side and on the moral side, than that gentleman. I beg that you will not believe that there is anything in the statement made by either of the eminent gentlemen from New York to alarm you over the conditions of the New York Bar resulting from the fact that men who are descended from European immigrants are going to ruin the standards of the Bar. I could not vote for these resolutions if I so interpreted them. Moreover, let it not be understood abroad that the purpose of these resolutions is to confine the Bar to those who believe in one system of legal jurisprudence. We know too well, those of us who know anything about the practice in Louisiana, that we have already succeeded in borrowing from her continental system, and we will continue to borrow. One of the speakers this morning referred to the fact that the universities are crowded with radicals. The provision of college education is no guarantee that our system of law is going to continue in its present form. But the committee believes that the essential point upon which we, as lawyers, must all agree is that the lawyer shall have the tools of his trade, and that the tools of the trade are not merely knowledge of the law, but knowledge of those subjects which ordinarily can be secured only through university training, which makes for an understanding and development of the law. We are too prone in this country and in this day to assume that the lawyers' work ends in finding the statute and the case on all fours. That is not so. The true function of the lawyer—and here I differ with Mr. Byrne—is in the public capacity in which he serves the client. The lawyer, in the handling of a case in court, is making for a precedent in the law which shapes the law as a matter of public policy. And over and over again we have found errors traditional in the law, brought about by some of the judges in this country, due to lax studying of English precedent, due to the fact that there has not been sufficient research and sufficient understanding of the historical background, and that error has been repeated.

Our Court of Appeals has, within three years, reversed itself on important constitutional questions because of the fact that the presentation in the second case was more complete than in the first. The lawyer of today must not only have a historical background, must not only have the training to enable him to analyze

the precedents, but he must have the knowledge of the sciences which will enable him to present those facts of which the court is supposed to take judicial notice, but of which it has not enough actual notice until it is presented to them by the trained advocate.

Now every man who has had the misfortune to own an automobile knows that the kit of tools that is carried under the chauffeur's seat will not take care of his car. If he has any kind of a garage or does his own work he knows that to vulcanize his tires or even take the carbon out of his cylinder he has got to have a whole garage full of all kinds of tools. I have one ideal, and only one ideal, among the men whom I have met, who, in the practice of the law, has all the tools requisite. I am glad that he is not in the audience so that I may mention his name. The only man at the Bar—and I am not speaking now of native shrewdness, although every one will admit that this gentleman has that in very large measure—but the one man whom I have met in all my contact with the American Bar who satisfies the requirements of having a complete kit of tools is Mr. Hampton L. Carson, because he knows the history of all the important statutes, the history of all the important decisions and has the background of training that enables him at almost a moment's notice to turn to what he needs. That is my ideal of a well-trained lawyer. In a case not long ago in which I was associated with an eminent leader of the Bar, a very busy practitioner, I suggested that we might make a review of the historical origins of certain things. And when I came back with the report he reminded me of the farmer's suggestion that when going to the restaurant and asking for soup the girl said, "The only kind of soup we have is ox-tail soup" and the farmer said, "That is going pretty far back for soup."

As a matter of fact, you cannot go too far back in the study of matters that come to your attention. As it was so well expressed this morning, the lawyer who comes to the Bar without that equipment is hurting himself as well as his client.

These resolutions recognize that there are men who do not have to go to college in order to get that training. These resolutions make the allowance for that, and let me remind my friend from Tennessee, as I did yesterday, that we are making

recommendations to the Bar Associations of the entire country, and that it is for them to determine in each instance whether the conditions in their state require these standards, or anything higher or anything lower, but we do mean to assist the American Bar Association in these resolutions in formulating a sound public opinion of the Bar.

Charles S. Thomas, of Colorado:

Mr. Chairman, ladies and gentlemen: I would be very sorry, indeed, if the remark which I made regarding the motion of the distinguished gentleman from New York and the motion of my own should be construed as a reflection either upon him or as an imputation upon the fairness of the committee for whom he speaks. I think, however, and I think perhaps my impression is shared by a great many of the delegates to this meeting, that the supreme importance of the business in hand is of a character which should require and should therefore have the opportunity of the fullest discussion, even though it might result in some lapse of engagements, or in some other social disappointments while we are in the City of Washington.

No man believes more strongly than I in the need of education for the well-equipped lawyer. And so far as these resolutions affect the problem of education and of culture, I am in most hearty accord with them. I do not think, however, that I ever met a real successful lawyer who was not an educated man. Sometimes he got his education as I did and as you, Mr. Chairman, got yours, in that school of hard knocks and in the university of experience.

Like you, Mr. Chairman, I was down South in Dixie during the war. My mother's plantation lay athwart the pathway of General Sherman, and when he had finished his march there was not enough left of my mother's plantation to educate anybody. In those days we used to look around at the ruins on all sides and sing:

> Hail! Columbia, happy land,
> If we're not ruined, I'll be damned.

I never had the advantage of even a high school education, but yet I am egotistical enough to believe that I am an educated man. And I may say that if I knew half as much now as I

thought I did when I got my certificate of practice, I would be at the head of the Bar of the United States. These qualifications come from experience and from the possession of those qualities without which no man can be a great lawyer, whether he has a university education or not. My distinguished friend, the Chairman in the short address which he delivered upon this subject, referred to the need of a college equipment—I will not say education—but a college equipment, so as to raise our standards to the place where they belong. Now if a college were to raise the standard then I am for it. I do not mean to say that I am opposed to a college education, but I do say that there is no more ethics, no more morality to be gained from a college education than from an education in a lawyer's office. I have long ago reached the conclusion that education and morality are not comparable terms. We are the best educated people in the world, but are we the most moral? Crime today is so situated, so consolidated, that it receives more immunity than ever before in our history, and yet our education is universal and more widespread than ever before.

One of the greatest lawyers of my acquaintance, and I think the greatest lawyer I ever knew, who is in this room—and I am not to be deterred from mentioning his name for that reason—I served in the Senate with him for some years, is Elihu Root, of New York. He would have been just as great a lawyer if he had never seen a college, because he possesses the qualification of genius for the profession, coupled with the capacity for the hardest kind of labor. And that is what John Marshall possessed. Let me say right here, Mr. Chairman, that I disagree with your statement that if Justice Marshall had been face to face with the same requirement which these resolutions would place upon him that he would nevertheless have complied with them. He came out of the Revolution practically a grown man.

Chairman McAdoo:

I mean if faced with them today, under present conditions.

Mr. Thomas:

Well, we will take the conditions as they were, and the same conditions, of course, face a great many people now. Education,

that is practical education, I repeat, comes from ability plus industry, and to some extent opportunity, although a man who wants to learn makes the opportunity himself. Three great contemporaneous statemen a generation or two ago were Webster and Clay and Calhoun. Webster was a university graduate, so was Calhoun, but was Clay their inferior because he was merely a mill boy? The man whose education came by the burning of the midnight candle, by taking advantage of those few opportunities which, in the beginning, were his, and by making the most of them, is he inferior? And would Clay, and men of his caliber, have possibly reached the positions which they afterwards so greatly adorned had they been required to follow some particular sort of culture or education as the foundation of their subsequent careers? I do not think so.

Consequently my objection to these regulations is that in my judgment the legislatures of the different states never will crystallize them into law, and that is a great consolation to me. I should be greatly disappointed if I should find that that is not so as time passes. The fixing of this particular method neither raises the ethics nor constitutes any great claim for morality or in any other manner affects the question, except that those who desire such a course will, in all probability, find it not only desirable, but profitable. I cannot reconcile my information, my contact with men, my experience with men, with the fundamental proposition that many of them cannot possibly, by reason of industrial or economic conditions, poverty or dependence of others upon them, and so forth, who desire to join this great profession of ours, who might adorn this great profession of ours, find the opportunity to do so if these hard and fast rules are to be enacted and the door to opportunity to that extent closed in their faces. Mr. Byrne this morning spoke of the qualifications necessary for the practice of medicine. Of course the distinction between the practice of medicine and the practice of law was so well stated a few moments ago by Mr. Cohen that it is not necessary for me to refer to it. But I could not help but be a little amused when Mr. Byrne made the reference that he did. Imagine someone asking you what your education was, asking a lawyer what his

education was. Imagine a client saying, "Mr. Byrne, before I employ you, I want to know what college you graduated from, or whether you graduated from any, and I want to know what standard you met, or what preparation you had for your profession." Now I think with all due regard to every presence here that Mr. Byrne would probably tell such an inquirer to go to the devil. He would point to his reputation and standing and say, If you want me here are my services; if you think I am qualified, all right. If not, get a better man. The employment of counsel, in other words, depends on no such foundation. I cannot too greatly emphasize the fact that men of standing and character in the profession must be educated men. That is the basis of their capital, and it is that which constitutes the protection of those who need their services. The situation is very well illustrated by an old Union Pacific contractor out in my section of the world. He made quite a fortune in helping to build that great highway, and then concluded that he would like to go into the banking business, and he became president of a bank. One day a so-called tenderfoot from Massachusetts came in to borrow some money. He showed him a letter from his pastor and then a letter from one of the deacons of his church and then from one of the sisters in his church, and asked how much he could borrow. The old fellow looked at the letters and he said, "Oh, damn your religion, show me your collateral."

It makes no difference what sort of an institution you graduated from or whether you graduated from none; show the capital that you possess as a member of this profession, and you may be very sure that that is all that is or ever has been required.

Now I could, and so could you, from your experience, run over the list of hundreds and hundreds of the greatest lawyers of your sections and of your states, all of whom have come up from the ranks and who have adorned the profession to which they belong, and who have reached as high pinnacle in that profession as those who have had all these advantages of college training. The greatest lawyer today in the Senate of the United States is a self-made lawyer. He burned the midnight oil and he acquired the rudiments of his profession while earning a living for himself

and other members of his family. And I might name some college graduates up there who are lawyers, but if you were to employ them on a $10 justice of the peace case, I should doubt your sanity. I am not saying this as a disparagement of the college bred lawyer, but merely to illustrate the proposition that it is not fundamental. After all it depends upon the man and the use which he makes of his opportunities thereafter. Something has been said about the intolerable delays of the law. Is that the fault of the lawyer who is not college bred, or is it the fault of counsel generally, plus the infernal condition of our methods of procedure throughout the country? Or is it because of the multiplication of statute upon statute until today a man hardly dares to kiss his wife without first consulting the statute book to see what section of the compiled laws is covered by that situation. Those are the conditions which cause this multitudinous and ever growing confusion in the application of our law to concrete conditions and cases. And they will disappear when these causes are themselves attacked, as they should be. How many of those present are aware of the fact that the statutes of the United States do not impose a salary qualification upon the selection by the President of a Judge of the United States Court? I refer to the supreme circuit or district. I suppose it might be said by implication that he must be a citizen of the United States. But with that exception there is not a single qualification, and the President might appoint a physician or blacksmith tomorrow, or a walking delegate, just as legally, or he might select the greatest lawyer within the jurisdiction of the country. Let us look to these things which are practical, but do not forget the man who has his eye upon the profession who has thought that it always has been an opportunity for the poor man and the poor man's son, who looks forward and who is encouraged by the records of the careers of those great and eminent statesmen and lawyers who have in the past, notwithstanding adverse conditions, been able to take advantage of those liberal rules and regulations under which men may be self-educated, and then turn his education toward an admission to the profession, and make that profession his calling in life. These are the men for whom

I speak; these are the men who everywhere in my judgment will appreciate the fact, notwithstanding we are now an organized national body, that we propose to close no door in the face of any man, however humble, in the face of any immigrant, however ignorant, who aspires to a position in the noblest and greatest and most liberal and enlightened of professions.

Mr. Cohen:

Will the Senator yield for a question?

Mr. Thomas:

Gladly. I want a drink of water anyhow.

Mr. Cohen:

Would the Senator advise this Conference to treat the profession from the angle of the opportunity that it furnishes to a young man to make it his livelihood, or would he have this Conference treat it as an opportunity for service to the community?

Mr. Thomas:

Both. By all means, both. I would raise the standard of ethics, I would be in favor of the most drastic regulations seeking to confine admission to the Bar to men and women of high repute and good moral character. There is where laxity exists, and that laxity should be corrected. A man should not be permitted to present certificates from obliging friends to show that his character is good and his morals unquestioned, but he should be subjected to a searching examination, both personally and by reputation. That is the way to raise the standard of the Bar, and even then it would be impossible to keep out a great many unworthy members who creep into every profession, however great or however low.

Harry S. Knight, of Pennsylvania:

Will the Senator yield for a question?

Mr. Thomas:

Certainly.

Mr. Knight:

Admitting, Senator, all that you say, that you cannot ascertain a man's character under our present methods, how would you outline a method for raising the standard of ethics?

Mr. Thomas:

I am satisfied that it can be done. If you want an offhand answer, I would say that it could be done very much in the way that we learn of the character of witnesses upon the witness stand. I have no doubt that if a man of questionable reputation should ever fall into the hands of my distinguished friend, Mr. Cohen, that his reputation would be revealed in very short order, either to his admiring or disgusted countrymen. Now I am acquainted with two of the greatest engineers in this country who never had the advantage of college training, or of high school training. One of them lives in New York and the other in Dayton. What would be thought of an engineering profession that would bar men like that from the ranks of that great calling because, forsooth, they were not equipped with a high school education, or with two years at some college or university? The situation as it strikes me is this: Every citizen of the United States of good moral character has the right to join the profession of the law, if he wants to.

Mr. Cohen:

Without training, Senator?

Mr. Thomas:

If he can qualify and has that character before the Examining Board, he should be admitted, yes. If he lacks the training that is necessary, you will never hear from him again, just as a great many college graduates sink out of sight just as soon as they are face to face with the stern realities of a profession. If he has it, the training will come. It has come to you, sir, as it has come to me, and as it has come to a great many men who have adorned the profession, who have been eminent contributors to its glory and who, had they been faced with the qualifications required *in limine* in this resolution, these qualifications that it is

proposed to impose upon the young men of the country, would have had to follow some other pursuit.

Let me add one other reflection and then I am through. I speak now in behalf of the Association. I have told you gentlemen that the profession is already under criticism because its work is open to the current public opinion which runs in the direction of thinking that by our action we are attempting to create a professional monopoly. Just so long as that is true will much of our usefulness disappear. I have heard in my travels, and my travels have been somewhat extensive since last September, mutterings about these resolutions, suspicions, some of them expressed very openly and candidly, that following the general trend of centralization and of combination, the Bar of the United States proposes also to limit its membership, close its doors except to the favored few who may comply with its regulations, and by that means limit its membership and increase opportunities for wealth and power, which will go to those who fall within the charmed circle. You say there is no justification for it. I admit it. But there is no justification for many of those currents of public opinion which in their wide sweep through a country like this must necessarily react upon those who offend it.

Homer Albers, of Massachusetts:

Mr. Chairman, if the resolution which has been presented passes, then I would like to submit the following resolution:

Resolved, That the National Conference of Commissioners on Uniform State Laws be requested to draft a uniform act to be presented to the legislature in each State where the matter is within the legislative power, and to other proper tribunals, whether courts or Bar examiners or other officials, requiring, so near as may be the standard for admission to the Bar approved by this Conference.

Further Resolved: That all bar associations be requested to actively endeavor to secure the adoption of such uniform law or standard for admission to the Bar.

If the other resolution is passed, I should like the privilege of addressing the meeting for about two minutes on that resolution.

Chairman McAdoo:

The resolution is not properly presentable at this time, so the discussion of this resolution will be continued at the afternoon session and the Conference will now be adjourned for luncheon.

Thereupon, a recess was taken until 2 P. M.

AFTERNOON SESSION.

Friday, February 24, 1922, 2 P. M.

The meeting was reconvened at 2 P. M. by Chairman Goodwin.

Chairman Goodwin:

Before proceeding with the regular program, the Secretary of the Section of Legal Education of the American Bar Association has asked the privilege of making an explanation in answer to a suggestion made this morning in regard to the question of the part-time law school. I recognize Mr. John B. Sanborn, of Wisconsin.

Mr. Sanborn:

Mr. Chairman and gentlemen of the Conference: From some inquiries which have been made to me personally, and from some things which have been said in the discussion, it has seemed to the Section of Legal Education that it may, perhaps, anticipate some things which might come up, if a brief explanation were made as to what has been done and what is being done in regard to the classification of the law schools. As Mr. Root called to your attention yesterday, the third paragraph of the resolutions adopted by the American Bar Association commands the Section of Legal Education to publish from time to time the names of those law schools which comply with the above standards, and the names of those which do not, and to make such publications available so far as possible to intending law students. Of course, as he indicated, that mandate comes from the American Bar Association and it is the duty of the Section to proceed with that classification and with the publication of that information irrespective of any action of any other body. Of course the Section has no power to amend in any way the standards which are here set forth. The Section, of course, appreciates that there are a great many things in these standards which may require some consideration, and which may require further definition in time. The Section is now endeavoring to obtain from the law schools of the country the necessary information to enable it to make up its mind as far as it can on what are the definitions of many of these terms. I suggested this morning, for instance, the question of what is "devoting substantially all the working time to

the subject." That may be a question to which the Section will have to give careful consideration. Of course that will necessitate a definition of those who do not devote substantially all their working time to the subject. And there are very many other things which will require careful consideration before they are defined. I can say this, however, that the Section is not now prepared to say, and I am sure I could not answer the question, because I do not have the information, as to what definition it will give to any of these terms upon which there may be dispute. We do not know. We have not enough facts to proceed on as yet.

I asked from all the law schools that are here represented, directly and indirectly, that we might receive from those schools information as to which of them have any idea that they ought to come in the first class, or whatever you will call it, of those schools, and which anticipate within the measurably near future that they will come within that class, and asked that we might receive from them hearty cooperation in obtaining the facts on which we must base our action.

I speak of the schools which anticipate that they may come into that classification. It seems to me that these standards for schools have a double purpose. In the first place they are to indicate to intending law students what schools meet the standards that the American Bar Association has approved. In the second place, they set a goal toward which we hope the other law schools, or a great proportion of them, will set their pace. Speaking for myself on behalf of all the members of the Section with whom I have been in communication, I can, I think, assure the law schools who are within measurable distance of that goal that they will receive from the Section every encouragement and every recognition, and I anticipate, although, of course, no formal action has been taken on any of these matters, that when it comes to a final classification, if we have reason to believe that such and such a law school will, in 1923 or 1924, be able to meet those standards, we will so announce, and not leave the impression that that school is entirely in the lower ranks and has no idea of coming up to that goal. While we have no subdivision of the second class, as I say, I think I represent the sentiment of the Section when I say that some method can be devised for the plan of giving recognition to those schools which, in good faith, are

endeavoring to comply with the standards and do not feel, as many of them properly do not feel, that they can take the jump which in most cases has come from no college to two years of college all in one year. Many of them have gone up one year and anticipate going up another year in the near future.

Now if there are any points on this which I have not made clear, I will be glad to answer any questions.

The Chairman:

I think we had better limit the discusion on that. I will say, gentlemen, that this explanation has been permitted at this time although it is out of order. We have nothing, whatever, to do with the classification that is to be made by the American Bar Association on legal education. We are only here to discuss certain propositions and see what means can be adopted to bring about conditions that would make it possible to attain those purposes.

Wm. Draper Lewis, of Pennsylvania:

May I beg your indulgence as a member of the Council of the Section of Legal Education to say that Mr. Sanborn, of course, represents, so far as I know, every member of that Council in his general attitude. I also want to say in regard to Mr. Sommer's address this morning that I am quite certain that I speak for all the members of that Council when I say that our disposition will be to practically set down with him and others representing part-time law schools, with the object of so arranging the classification and carrying on the records of the American Bar Association as to help those good part-time schools that are desirous, as many of them, I am quite sure, are, of conforming with and helping the Council of the Section of Legal Education of the American Bar Association to carry out, not only the letter, but the spirit of the directions which have been imposed upon us by the American Bar Association.

The Chairman:

I would like now to introduce the Chairman of the afternoon. Before doing that, I would like to say that the resolutions presented this morning, I understand, are being printed. The committee desires to have every delegate and every alternate

present read the resolutions and consider them carefully. It will not be possible to discuss them in detail, but we want every delegate to be familiar with the text.

A great Chief Justice of the United States who has passed away said of the presiding officer of this afternoon's session that no one had presented in his experience as a Chief Justice of the United States his causes with greater ability or with greater success. Another member of the court, using a somewhat more vernacular expression, said that he had the highest batting average of any one who came before him. I take great pleasure in introducing to you, as your Chairman of the afternoon, the Honorable John W. Davis.

Chairman John W. Davis:

Gentlemen of the Conference, you will not, I am sure, if there were no other question than that of time involved, expect the Chairman of your closing session to attempt to gather any flowers of speech in a field that has been so thoroughly garnered as ours. I shall count my duty fully done if, as your presiding officer of this session, I am able within the limitations of that office to help you gather in the fruit of your two-days' discussion. Without saying more, I invite you to turn to the business of your closing session.

The resolutions which are before you were read just prior to your mid-day adjournment. I have been told that printed copies are not yet present. I shall ask before they are open for discussion that the Secretary re-read them to you.

(Secretary Harley re-read the resolutions.)

Maximilian T. Rosenberg, of New Jersey:

Mr. Chairman, is there any time limit set for the discussion?

Chairman Davis:

There is not, as I understand it.

Mr. Rosenberg:

I move that speeches on this discussion be limited to five minutes.

(The motion was variously seconded and carried without dissent.)

J. Newton Fiero, of New York:

Mr. Chairman, I desire to present for the consideration of this Conference action taken by the New York State Bar Association upon the initiative of a Committee of Nineteen, which was appointed in 1916 upon precisely the point at issue, or several of the points at issue. I shall only call your attention to one, and that is the matter of the length of time that a student should be obliged to spend on his education before entering upon the study of the law. This committee consisted of 19 members, 15 active members and four advisers. It was appointed in 1916. The advisory members consisted of three former Chief Judges of the Court of Appeals,—former Chief Judge Alton B. Parker, former Chief Judge Cullen and former Chief Judge Bartlett—and former Justice, and now Secretary of the State, Hughes. I propose to give you simply the recommendation upon this point made by that body after a very thorough and careful examination. Correspondence was had in the first place with the deans of every school in the country, in the next place with the Vice-Presidents of the American Bar Association in every state, again with the members of the Council of the American Bar Association, and again consultation was had with the members of the Bar of the State of New York, and we believe that the result of this examination and inquiry is that we have had before us the views of leading lawyers and the sentiment of the lawyers throughout the country. As the result of that the committee reported and the recommendation adopted was that the standard of preliminary study for the Bar be raised to a requirement of one year of college training or its equivalent, such equivalent to be formulated by the deans of the law schools and approved by the Educational Department and passed upon by the Court of Appeals.

I offer this on behalf of the Bar Association of New York and for the purpose of indicating what appeared at that time to the committee when both views were urged, that in favor of no college requirement and that in favor of two and four years college requirement, that there was a middle ground which I want to submit for the action of this Conference. I ask that the report of the committee and the action of the Association be placed on file at this time.

Chairman Davis:

The report will be received.

Josiah Marvel, of Delaware:

Might I ask the spokesman for the committee why they did not insert in the resolution referring to the law school work the word "equivalent" as you did in the college work? Under that you permit the equivalent of two years of college work.

Mr. Cohen:

In proper cases.

Mr. Marvel:

Yes, but what are your reasons for not inserting the same language in permitting the Bar committees in the various states to permit the equivalent of three years' law school work?

Mr. Cohen:

Does the gentleman from Delaware mean that we ought to have provided in the resolution for the equivalent of a law school training?

Mr. Marvel:

That is my thought, and I wanted to know your reasons why you did not include it.

Mr. Cohen:

I will be glad to answer, sir. It is the opinion of the committee, and it was the opinion of the American Bar Association, that just as in the case of the practice of medicine, it is not practicable to secure a legal training except in a law school. While it may be practicable to secure the equivalent of a general education by industry and perseverance, it is not practicable to get the tools of your trade in anything but an adequate law school.

John Lowell, of Massachusetts:

Mr. Chairman, ladies and gentlemen: I was chosen a delegate to this convention and I am proud to have been so chosen, by Henry S. Hurlbert, President of the Bar Association of the City of Boston, to whose patriotic spirit, untiring industry and ability

more than to that of any other man, unless it be our attorney-general, we are indebted for the house cleaning of the Bar of Massachusetts which is now going on. I refer to the removal from office of two district attorneys for blackmail and other causes. And it behooves me at this time, coming from Massachusetts, to speak on what I regard as the most essential, or certainly as essential an advance in the ethical requirements of admission to the Bar. You doubtless all know that every state requires that a man should be of good moral character. Some states require no affidavits. There are only four states that require a Committee of Character. A single affidavit, it is hardly necessary to say, is a farce. There is a case down in Tampa, Florida, which was referred to me, of a man who could not get a certificate of good moral character in his town, so he went into the next town, was on his good behavior for three weeks, and came back with a certificate of good moral character and was admitted to the Bar, embezzled money inside of a month and was disbarred. That is an illustration of why a mere certificate of moral character is not of much avail. Now I have this suggestion to make; it is concrete, but not very definite. I am thoroughly in accord with this resolution; I am in accord with this resolution because a young boy can go through Harvard College, if necessary, and I believe can in other colleges, or for two years because we have aids there to help those boys and all we have got to do is to let those aids be known. And I want to make this suggestion to you. There are not only the aids for a boy—we call it the Harvard Loan Fund in the case of Harvard College,—but the boy who applies for that aid can get that aid whether he is a scholar or not, if he is worthy. We get the opinion of the authorities in that college, and then make up our mind, the board being managed by the trustees independent of the college. If the boy is worthy he is going to get that aid. The dean has got to write us a letter showing that the man is of good moral character.

My second concrete suggestion is this, that we should strive to see to it that all the states have Committees of Character. After the regular examination, the applicant should be submitted to an oral examination by special committees of character, preferably chosen by the courts. I also believe that he should have

to present to the Committee of Character, the certificate from the dean or officer of his law school that he has a good character. That certificate is worth something.

Now I have another suggestion, that in the law schools you should have, and most of them have it already, a proper teacher of the code of ethics, and proper examination on the code of ethics. In addition to the certificate from the dean of the college you should have a certificate from the man who has taught the law student in the law school legal ethics. I think if you have those two certificates and with the Committee on Character making the oral examination, that you are going to accomplish something.

One thing further and I am through. I think it will be possible to have the Committee on Character, a committee to whom a boy could refer when he needs advice and help. There are a good many poor boys. I am thoroughly in sympathy with the desire to have the poor boy a member of the Bar if he is a worthy boy. No resolutions that do not provide for that should be tolerated. We have got to have the worthy young man. I have them in my own office. But those boys, just as sure as I am talking to you, the real good ones that will help and not be a menace to the community, will get that education. I should like to see that Character Committee, a committee to whom these boys can refer when they are in doubt as to what course they should pursue.

Those are suggestions that I would make to you. I feel them very, very strongly. I was 15 years with the Grievance Committee of Boston. We suffered not only from lack of education, but we suffered from men who had no moral standards. Let us see to it, so far as in us lies, that we can give future law students proper education and that no boys get by, if we can provide any way to prevent it, that are going to be a menace to the community afterward.

W. C. G. Hobbs, of Kentucky:

Mr. Chairman, I come from what may be considered a provincial town. The little town of Lexington, Fayette County, Kentucky. But I know you will pardon me when I say that for 30 years I have had the honor of practising at the Bar that was

adorned by Henry Clay, John C. Breckenridge, George W. Robinson, Black, Kincaid and other lawyers that made this country famous. Now that Bar Association, of which I am a representative here, endorses fully and thoroughly the resolution passed by the American Bar Association, and if the one hundred and one lawyers were here to a man they would endorse and approve the resolution that was read a few minutes ago.

In that little provincial town we have two great universities, one through which Mr. Justice John M. Harlan had both his law and his academy training as well, and various other men, old Transylvania, now in its one hundred and twenty-seventh year, a State University that has a splendid law school. And there is nobody in Kentucky so poor that he is unable to obtain his degree from either Transylvania University or the State University, and then to obtain his legal degree from the college. We Kentuckians mean to see that the humblest man's boy, farmer, mechanic or business man, who is worthy, may have the education required by these resolutions, both academic and from a legal standpoint, and as the representative of that little bar association I want to give our wholehearted approval to this matter.

Michael F. Dee, of New York:

Gentlemen of the Convention, I realize that the time is short, five minutes being allotted to each speaker, and I am going to be extremely brief and, I hope, a little bit concrete. I suspect we have been listening most of these two days to arguments in favor of a great major premise of a syllogism that a greater amount of legal education is highly desirable. The old scholastics used to say that to dispute a man's major was insulting. Nobody disputes that major. But whether that program announced in this resolution will accomplish that result, is a minor, and on that resolution we may honestly differ. Let us look at the resolution. The great speaker who introduced this business yesterday pointed out to us that we are not talking in abstractions at all, that this resolution and its results are vibrating with vitality. The active and actual result of the adoption of this resolution and its substance is here on page 9 at the foot of the little booklet

found at the door, though enlarged to some extent by a half dozen additions that are really unsubstantial and operation under it is, in the words of Mr. Reed of the Carnegie Foundation, going to, in substance, sear out of existence those law schools which do not come up to the requirements decided upon by this board,—not by this Conference, let it be understood, but by the board investigating this matter. Let me come to the heart of one of these points. We are talking about full-time schools and part-time schools and the secretary of that board or subdivision or whatever it may be, informed us a half an hour ago that the matter of this definition is postponed. This definition is vital and we are asked to approve of those resolutions without knowing what that definition will be. In other words, if we approve of that system of pitiless publicity, it is going to sear out of existence the law schools. What law schools? Those that we are able to specify here today? No. Such law schools as in the final determination of that board shall not be full-time law schools. Gentlemen, are we asked to do a reasonable thing in that regard? I want to disclaim being in any sense an advocate of inferior legal education.

Mr. Cohen:

Will the gentleman yield for a correction?

Mr. Dee:

I will yield for a suggestion of a correction, but I desire to say that five minutes is all too short to express what I want to express.

Mr. Cohen:

I ask that his time be extended so as to permit him to have the five minutes, Mr. Chairman.

Chairman Davis:

Without objection it will be so ordered.

Mr. Cohen:

The resolutions which have been offered here and which are the subject for debate, do not call for the creation of such a body that will supervise the law schools. Copies will be available presently.

Mr. Dee:

I desire to say, answering the suggested correction, that the Secretary of the Section of Legal Education of the American Bar Association who opened the meeting this afternoon with the reading of the resolution, referred in effect to sub-division 4 on page 10 of this printed form, and stated that the Section of Legal Education and Admissions to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and those which do not, and to make such publications available, as far as possible to intending law students.

Mr. Cohen:

I rise to a point of order merely for the purpose of clarifying the discussion.

Chairman Davis:

You may state your point of order.

Mr. Cohen:

This Conference cannot adjudicate the action of the American Bar Association. It has adopted a procedure which Senator Root outlined. So far as we are called upon by it, we are confined to the resolutions that the committee has offered and those resolutions merely commit us to the standards named in our resolution. The gentleman, in discussing the council and its functions, is discussing a matter wholly within the jurisdiction of the American Bar Association, and not germane to these resolutions.

But I will withdraw the point of order.

Mr. Dee:

I want to be entirely courteous to the gentleman who has twice arisen with suggested corrections, and to call the attention of this body to the fact that we are asked to pass a resolution of approval of certain points, and that the resolution will come up for action at this Conference before we adjourn this afternoon, and in that resolution is included every single item, because I followed the reading twice today, included in this report. When I read from this report—

Mr. Cohen:

The gentleman is incorrect in that.

Mr. Dee:

Excuse me, but I must insist upon being permitted to continue.

I may say, gentlemen, that I represent a law school of some 1100 students in the City of New York, the Fordham Law School, downtown in the midst of the lawyers, and let me say, though it sounds unpleasant, but I intend it merely as a presentation of an objective situation, that though I have been the head of that law school for 10 years, and I assume that the leaders of the New York Bar are here today, I suspect that none of them has ever before seen me or known my name until I arose here today, or was aware that I was connected with an educational institution. What are they doing now? They are coming before you now, and what are we asked to do? They are proposing to correct the evils of the Bar and put the correction of those evils entirely on the law schools. And the law schools, let it be suggested in passing, are not allowed to vote on that very thing. Will two years of college advance the position of the law student? Out of our 1100 students we have some 200 who are college A. B.'s. I say from personal experience, and I am trying to be honest because unless you assume our honesty then we get nowhere—we get nowhere unless we assume the honesty of the others—there is a certain type of college graduate in our school who is a greater evil than those who are not college graduates. And why? What is the radical defect in the law student today? It is rebellion against authority. Where is that corrected, in the Metropolitan college of today? I want to say that destructive criticism is rife in the eastern cosmopolitan colleges today, and while I personally feel that the international colleges in no sense are giving way to that destructive criticism, the blanket requirement of two years of college preparatory work gives you only a greater rebellion against authority.

James Byrne, of New York:

Mr. Chairman, I rise merely to say that I have heard the gentleman who has just spoken before with great pleasure, and I know him very well, having heard him at state bar associations.

Mr. Marvel:

Mr. Chairman, I desire to move an amendment. I have not a resolution and I cannot submit my resolution in writing, but it is sufficient, perhaps for the committee and for the information of the members if I propose an amendment providing that the courts and the Bar committees may, under proper circumstances, accept the equivalent of three years' work in a standard law school. That will be using the same language that they have used regarding two years in a college. I move that amendment.

George A. Ward, of the District of Columbia:

I second that motion, Mr. Chairman.

Mr. Marvel:

In moving this amendment I am largely moved by my very keen desire that this Conference do something that will practically advance the standard of the Bar. We assume, to a degree, to be the leaders of the Bar of this country; we assume, to a degree, to attempt to lead public thought in this country regarding the relations of the Bar to the public. A leader, as you know, is one who is going in the same way with the people but a bit in advance. If they go too far in advance and disappear around the corner they are no longer leaders, they are lost. I am very fearful that the resolution of the American Bar Association, as modified even by this Conference, is attempting to go too fast. I think it is not practical. I think we cannot rapidly carry it into effect, that is, not so rapidly as we would if we show the bar associations through the country what we propose as a standard and urge them to cause the students at their Bars to reach that standard as rapidly as possible. So that your own committee waives the American Bar Association standard as to two years of college and says under proper circumstances we recommend that that be waived. Now I ask you to go one step further, that the courts and Bar committees throughout the country may be permitted to waive three years at a college law school under proper circumstances. If it were thought that that was impossible, as Mr. Cohen said a while ago, that a proper preparation for the Bar and the making of a good lawyer could only be obtained in a law school, I would stand with the mover

of this resolution, but all history refutes that. If you say it cannot be done, then I cite you John Marshall. If you say it cannot be done, I cite you four members of the Supreme Court of the United States sitting today. If you say it cannot be done, I cite you every member of the judiciary of my State of Delaware, not only of our state courts, but of the United States Courts, and our members of the Circuit Court of Appeals of the Third Circuit. It can be done. It is different from a doctor. Turn the right boy into my library, or into yours, with the proper effort and ability and time, and he can come out as good a lawyer as many college graduates and better still. It can be done without the law school and I ask you that the boy who furnishes the proper effort, the proper ability and the proper character and produces to a law committee or a court that which is the equivalent of three years at law school, let him come to the Bar as those of his predecessors have, for the purpose of entering upon a career that may be a benefit not only to himself, but to the community in which he lives.

Chairman Davis:

In the absence of any rules of order, the Chair is in doubt about the proper procedure, whether these amendments should be accepted as made and held for a final vote *seriatim*, or whether we should vote upon the amendments as they are made and dispose of them immediately.

Mr. Cohen:

I move that it be the order of the house that we proceed with the discussion and that at an appropriate time we proceed to vote upon the pending motions before the house, the appropriate time to be determined later.

Chairman Davis:

And the resolution and all amendments thereto in their order?

Mr. Cohen:

Yes.

Chairman Davis:

Do you mean to vote on each substitute, or the original motion?

Mr. Cohen:

Each substituted point. We will postpone the vote until we have had a thorough discussion.

Chairman Davis:

It is moved and seconded that the vote on the substitutes and amendments be taken in their inverse order. What is your pleasure regarding that?

(The motion, being duly seconded, was carried.)

W. H. Ellis, of Florida:

Mr. Chairman, I will offer as a substitute the following, and with the permission of the Chair I will read what I have prepared. It is not my purpose to offer any word in defense of this resolution, deeming that it speaks for itself. And regarding the proposition before this body as one largely in the nature of a local question, I offer this resolution:

WHEREAS, A reasonably high standard of character and literary and technical training should be required of all persons desiring to practice the profession of law in the United States, and

WHEREAS, The subject is one with which the Bar of each state should deal through its own organization as an instrumentality of the State, therefore

Be it Resolved, That the State Bar Associations represented in this convention pledge themselves to such activities in their respective states as may lead to the enactment of such legislation as shall vest in the Bar of each state the power to prescribe such qualifications for admission to the Bar as may be deemed suitable.

Chairman Davis:

You offer that as a substitute for the present resolution?

Mr. Ellis:

Yes.

Chairman Davis:

Is there a second to the motion?

(The motion was seconded.)

Mr. Cohen:

May I address an inquiry to the mover of the resolution?

Chairman Davis:

Yes.

Mr. Cohen:

Do I understand from your resolution, sir, that the effect is that it will mean that the Bar of each state will have complete control of the admission of the successor of the lawyer then a member of that Bar?

Mr. Ellis:

The resolution deals only with the application for admissions to the Bar.

Mr. Cohen:

The determination of the qualifications for admission to the Bar?

Mr. Ellis:

Yes, and such activities—

Mr. Cohen:

Then may I ask the gentleman how he will meet the probable criticism that will come from the control in each state by the existing Bar of future admissions to the Bar?

Mr. Ellis:

That will be a question which we will answer when we get to it, of course. Gentlemen of national reputation as lawyers of unquestioned ability have spoken on this subject both pro and con, and that is an illustration of the fact that the difficulties are exceedingly great.

Mr. Root:

Mr. Chairman, I have to leave in 10 minutes to take a train; may I ask the indulgence of this body to use five minutes of that time? There have been two kinds of suggestions made in opposition to the approval of the action taken by the American Bar Association. One is in recognition of the serious evil with which our Bar ought to deal. The evidence that has been produced from many lips here during the past two days shows that this nation, more than one-half of which has come to live in cities where men know little of each other, can no longer maintain a Bar of the quality and character that has built up this republic

in accordance with the customs and usages of earlier and simpler times when men lived in rural communities and knew all about each other. But the recognition of that fact distinctly made, for example, by the gentleman from Florida, who proposed the substitute a few minutes ago, is accompanied by a pious hope, a resolution wholly ineffective to cure anything, just such as we have been having for a quarter of a century before the American Bar Association finally came to a concrete conclusion, which, if adopted, will accomplish something. I think that the proposal of my friend from Delaware, Mr. Marvel, is of the same general character. It is to approve the standard but remove the standard at the same time. Now, for heaven's sake, do not let us stultify ourselves. If there is something wrong, as there certainly is, let us deal with it, and not use weasel words about it.

Another class of objection was illustrated this forenoon by my friend, the former senator from Colorado, Mr. Thomas, for whom I have had for 40 years or more, since we first met in the Supreme Court of the United States, not only great admiration, but warm friendship. Now my good friend was responding not to a study of this subject, but responding to the natural reaction of a man who rather dislikes to have the old traditions of his life interfered with by somebody else.

I am willing to admit that if you concentrate your attention, as he did, upon Thomas and me, you do not need any cure. We are too old to be anything else. Whenever trouble comes it comes in the fact that this Bar of ours is being filled up to the brim at every term of court by thousands of young men whom nobody knows anything about. And the question is how to get a line on them so that you can keep the fellows out that are merely trying to get an opportunity to blackmail and grind the face of the poor, merely seeking an opportunity for more successful fraud and chicanery by having a law shingle. How can you let in the good fellows, the earnest, sincere fellows, and keep out the black scoundrels of the future? I have not heard any suggestion that takes the place of saying that you shall have a period, in the nature of a period of probation, where two things shall happen to you; where you shall be under the observation of men whose testimony regarding your daily walk and conversa-

tion will be accepted as proving whether you are the right stuff or not, and the other that you shall be under such conditions that you will be taking in through the pores of your skin American life and American thought and feeling.

My friend Thomas did not do himself justice in the story about the banker who said, "Damn your religion, show us your collateral." That is not his character. That did not come from Thomas. That did not come from his heart. It came from the nature of the proposition that he was arguing and I am against it. God forbid that that shall be the principle applied to building up the American Bar of the future. Above all the stocks and bonds that can be made into collateral, stands as a guarantee of the future of our great and prosperous country, the character of the men who come to be called to the Bar. I hope sincerely that this Conference of men who hold dear the good name and the prosperity and the moral qualities of the communities and states from which they come, will not here vote to stop the only effort the Bar has ever made to answer the prayers of the good people who want our country better, and to answer the terrible responsibility that rests upon it to maintain the free institutions which are to perpetuate liberty and order in our dear country.

All that the opposition here comes to is simply to stop, to stop! to do nothing! stop the American Bar Association, disapprove them, tell them they should do nothing! How much better, instead of beating over the prejudices and memories of a past that is gone, it is to take dear old Edward Everett Hale's maxim, "Look forward, not back; look upward, not down, and lend a hand."

(Cries of "Question," "Question.")

Mr. Cohen:

Mr. Chairman, I move that we proceed to a vote upon the resolutions in parliamentary order at a quarter to four.

(Cries of "Vote now" and "Question.")

Mr. Cohen:

Then I move that we proceed at once.

(The motion, being duly seconded, was carried.)

Chairman Davis:

The pending motions will be put in order. The first question is on the substitute offered by the gentleman from Florida, Mr. Ellis. As many as are in favor of that substitute will say "Aye." Contrary, "No." The "No's" have it and the substitute is lost.

The motion is now upon the amendment offered by the gentleman from Delaware, Mr. Marvel. As many as are in favor of that amendment will say "Aye," contrary, "No." The amendment is lost.

The next motion is the one offered by the committee, moved by Judge Goodwin and seconded by Mr. Cohen. As many as are in favor of the adoption of this resolution will say "Aye." Opposed, "No." The "Aye's" have it and the resolutions are adopted.

Mr. Cohen:

I offer the following resolution, and I ask that, in view of the fact that this calls for action on the part of the delegates and alternates, attention be paid to it. It is the only other resolution that will be offered on behalf of the committee:

Resolved, That the delegates and alternates from each state shall nominate one person to represent the State on a committee to be known as "The Advisory Committee on Legal Education of the Conference of Bar Association Delegates." The duty of the Committee shall be to advise and cooperate with the Section of Legal Education and Admissions to the Bar of the American Bar Association to promote the adoption of the standards of legal education and admission to the Bar approved by this Conference, and encourage the improvement of legal education.

The first meeting of the committee will be held at 9.30 tomorrow, Saturday morning, in the rooms of the United States Chamber of Commerce, Mills Building.

The purpose of the latter end of the resolution is not that there shall be a full meeting at that time, but that the committee shall be apprised as early as possible of the nominees from each state. I move the adoption of the resolution.

(The motion was carried.)

Mr. Goodwin:

Mr. Chairman, I move that the Conference of Bar Association Delegates tender to the National Daughters of the American

Revolution our sincere and our warm thanks for the use of this beautiful hall.

(The motion was carried.)

W. A. Hayes, of Wisconsin:

Mr. Chairman, I think the brief motion I am about to make is appropriate. There is ill in the city one of the great men of the country and one of its great citizens and one who has been one of its great public servants. I refer to the gentleman who is a great educator and who, 28 years ago, appeared before the Section of Legal Education of the American Bar Association and delivered a most learned and stirring appeal for the broader education of the members of the Bar. I move a rising vote of sympathy for the early and complete recovery of former President Woodrow Wilson.

(A rising vote of sympathy was extended to Ex-President Wilson.)

The Conference thereupon adjourned.

HERBERT HARLEY,
Secretary.

SPEECHES AT DINNER.

Washington, D. C., February 24, 1922.

The Chairman of the Conference, Clarence N. Goodwin, of Illinois, who presided at the dinner, in introducing the toastmaster, said in part:

The American Bar Association went into the Conference—one among two hundred twenty, with five delegates and five alternates out of a roll call of over six hundred fifty; it emerged triumphant, its program adopted, its leadership vindicated, and with the Bar Associations of the country brought into closer union. It is only fitting, therefore, that its President should act as toastmaster at this Conference Dinner.

Cordenio A. Severance, of Minnesota:

This dinner marks the close of an innovation in the activities of the American Bar Association. We may congratulate ourselves upon its success in number and attendance and the excellence of the papers and of the discussions, and in the progress it makes toward closer affiliation between the American Bar Association and the various state and local organizations.

The closer the bond and the more intimate the relation and affiliation of these various bodies, the more potential will be the Bar in making itself felt upon the issues, great and small, with which we are confronted, and in which we must inevitably take the major part in settling. The American Bar Association has, in the face of strong opposition, the sincerity of which I am sure none of us challenges, taken a distinct step forward in advocating advanced requirements as conditions precedent to the practice of the law. The increase in the number of colleges and universities and the institution and maintenance of law schools throughout the country has made that easy which would hardly have been possible, and certainly not feasible 40 or 50 years ago. The advancement of general culture in our country has made it inevitable that if the legal profession is to continue as the leader in public thought, it must continually seek to enlarge and develop the preparation for the exercise of its great functions. In the earlier days of the republic, and until a comparatively recent time, the standards that were set up to entitle one, by a certificate of admission to the Bar, to take upon himself the protection of the

lives, the liberties and properties of his fellow men, were very low. Very often after a few months only in the office of a preceptor, and a slapdash inquiry by a committee of the Bar which had had only a similar training, a candidate was received into the ranks of a supposedly learned profession. The shining success achieved by some men of note who lacked the advantage of the training now proposed as essential, has often been cited as proof that it is an unnecessary requirement. But we are legislating for the whole of the community, and not for the isolated genius who can surmount all difficulties; we are legislating for a State of Society and a general range of culture far different from that of a half century ago. I remember being told at one time by a lawyer who was examined for admission to the Bar in a western state, after a few weeks reading of law, that one of the things asked him was, as to the rule in Shelley's case. Having known of a farmer by that name in the neighborhood, but not having learned of any litigation, with which he had been connected, he wrote down as his response: "Unfortunately I have never heard that Shelley had a case." I am sure we are all familiar with that classic writing of Judge Baldwin, called "Flush Times of Alabama and Mississippi." Among the sketches is one describing the examination of a candidate for license during the year 1837 in Mississippi. The author says that a certain gentleman had made known his desire to be turned into a lawyer. Such requests at that time were granted pretty much as a matter of course. The author then remarks that practicing law, like shin-plaster banking or a fight, was pretty much a free thing; but the statute required an examination by a committee or by the court, so the candidate was put through his paces. Among other things he was asked to define a chose in possession. His response was that "If a man had two possessions to be chose, the one that he takes is the chosen possession." When asked the distinction between law and equity, his response was that "Law is as it happens according to proof, and the way the juror goes; equity is justice, and a man may get a devilish sight of law and get devilish little justice."

It is a tradition in the part of the west in which I live, that the first public witticism of that distinguished humorist, Bill Nye, was in connection with his examination for admission to the Bar. He had studied a few months in a law office, and pre-

sented himself as a candidate. It happened in that particular instance that the committee of the Bar took their duties rather seriously, as a result of which his lack of success in the examination was lamentable. He was a likable youth. When the adverse report was made to the court, the latter, knowing him, spoke in a fatherly way, advising him that as he had studied but a short time, he would best return to the office of his preceptor and pursue his studies until the next term of the court, six months hence, and again present himself, at which time he would doubtless pass an examination which would be a credit to himself and a source of satisfaction to his friends. Mr. Nye rose from his chair, bowed to the court and said, "Will your Honor kindly fix the amount of my bail?"

Not so many years ago it was not deemed even advantageous for men who were to pursue what is commonly called a business career to have had the foundation of a liberal education. It was frequently spoken of as a waste of time and a delay in getting on in the world. We have progressed beyond that period, and in all branches of business activity, manufacturing, banking or agriculture, it is normally recognized that a man with a college training or a technical education is superior in working capacity and effectiveness to one who is not possessed of such advantage. Of course, under these conditions the Bar cannot lag behind. But however well our young men and women are grounded in the classics and other branches of learning in our universities, and however diligently they pursue their studies in the law schools before coming to the Bar, they must have something more than the mere training that comes from books. They must be taught that they are not entering upon a trade, but are becoming members of a learned profession, limited in its membership to those who have shown themselves worthy, not only by education but by character. They should be taught and should understand, that in the practice of this profession they must observe its ethical standards; that there are other things in the world more important than winning a law-suit; that they are not running a department store with agencies and advertisements to drum up business. Too much emphasis cannot be placed upon this requirement. The law schools have made too little of this important matter in their curriculum. Neither the courts nor the committees of the Bar have adopted methods sufficiently drastic to maintain the tone

and standard of our profession in this regard. We are constantly receiving advertisements from corporations, announcing their ability to practice certain branches of the profession through counsel retained by them. Very often the names of these counsel appear upon their letterheads. We receive engraved notices from lawyers, stating that they have associated with themselves men (not members of the legal profession), who, because of some recent official position or otherwise, are especially qualified for the transaction of certain lines of legal business. If this is to go on, we may soon expect to have advices from members of our profession, to the effect that they have associated themselves with the chief-chemist of important distilleries and breweries, and are therefore peculiarly qualified to take care of violations of the Prohibition Law. In the law schools the young men and women should be so trained as to the nobility of their calling as officers of justice, that such methods will be impossible. We are either to have a profession devoted to the holiest of all human functions —the procuring of justice between man and man, and between man and his government—or we are to have a trade carried on like that of any huckster.

One more thought: The proposal of the American Bar Association is, that before entering the law school, the prospective candidate for admission to our profession must have had at least two years' college training. Having in mind the influence that will be wielded in the various communities of our country by the lawyers whose preliminary training is thus insisted upon, the duty rests upon the members of our profession to use their best endeavors that the teaching force of these universities and colleges be made up of men and women devoted to the ideals of our government, to the Constitution created by our fathers and applied with such marvelous success to the changing conditions that have arisen in the last century and a third. It is a fact that has been blinked at or ignored, that latterly, while we require an emigrant applying for citizenship to swear his devotion to our Constitution, we too often permit the youth of our country to have their unformed minds warped by lecturers and professors who are about as devoted to that Constitution as Lenine and Trotsky. In a public address recently delivered by the President of one of our important colleges, the audience was favored with the following:

"The federal and state governments, boards of education, Americanization societies, American Legions and organizations of every kind, are demanding that children and college students should be taught patriotism, concrete citizenship and 100 per cent Americanism. This means that the teachers and college professors as yet only in the public schools and state universities, but unless the movement is determinedly opposed, sooner or later everywhere, are being required to teach, not how to make things as they should be but that things as they are, are right; that the United States Constitution as written 134 years ago, is perfect; that our highly unsatisfactory government must not be criticised; that the United States flag, which as we all know flies over many cruel injustices which we hope to set right, must be reverenced as a sacred symbol of unchanging social order, of political death."

No more unfair characterization of the patriotic activities of the organization thus criticized could be made. No good American desires the stifling of discussion of measures for enlightened progress, our statute books are filled with salutary legislation which is the result of such discussions, but they have been placed there by the friends and not the enemies of our country and its institutions.

If we were honest men and women when we took our oaths of office as members of our profession, if we appreciate as we should, that it is because of the protecting arms of this Constitution that we have grown to be the greatest of all the powers in the world, with the most individual liberty and the highest average of personal happiness, then we must see to it that these facts are brought sharply to the knowledge of the youth of our country, and that we no longer ignore the fact that they are on all sides having dinned into their young minds revolutionary, fantastic notions, subversive of the Constitution and the protection it affords.

ADDRESS OF HARRY M. DAUGHERTY,

ATTORNEY GENERAL OF THE UNITED STATES.

THE AMERICAN BAR.

I congratulate myself that I have the privilege of meeting with you here tonight as brother lawyers. The pressure of official duties gives me little opportunity for speech making, and I therefore do not seek occasions to make public addresses

these days. However, I thank you for this invitation and for this opportunity, feeling full well that the inspiring support that you will give will be ample compensation for any message that I may bring to you.

I have always held the legal profession in the highest esteem, and now, after having had the experience of nearly one year as Attorney General of the United States, I can say that I am prouder than ever not only of the law as a profession but of the American lawyer.

The American lawyer, his ideals and his conception of service, as well as his character and equipment, both intellectual and moral, are of paramount importance to every man who loves his country and cherishes its welfare. The very nature of constitutional government makes the mission of the lawyer one of fundamental importance. In a government of law and order the lawyer must occupy a commanding position. His relation to the state brings to him the call of public service. His relation to clients, in the private affairs of life, demand of him intellectual and moral qualities of the highest kind. Hence, it is altogether fitting that you should gather here, to the end that the standards of the American lawyer may be elevated to as high a point as possible. Your work is intensely unselfish and patriotic. You have come here, without pay, and without expense to the public or to clients, and have taken common council together in this Conference from all parts of our country, from your distant homes, not for benefit to yourselves, not to devise ways and means by which you yourselves can profit, but you have generously and unselfishly given of your time and of your thought and of yourselves to considering those things which make for the honor and efficiency of our profession. Your object is to establish a standard so that the lawyer may be capable of responding to every call which his high position demands of him. This is, indeed, a serious and important work.

I have at times been doubtful whether the American lawyer today is doing as much in the way of public service as the lawyers of an earlier day. This may be because we see only the outstanding figures of our profession of a former day. When I think of the Fathers who framed the Constitution and of the splendid part of Hamilton, of Madison, of James Wilson, of Edmund Randolph, and others of that glorious group of young lawyers who

drank deep at the fountain of human liberty and, with united mind, gave the world a new conception of a constitutional government founded upon law and order, strong and forceful, and yet with individual liberty protected, I see before me for all time the vision and the ideal and the conception of public service that should be held up to every young lawyer. In earlier times, because the very nature and foundation of his profession made him more capable than others to do so, the lawyer embraced the privilege of speaking, of seeking opportunity to inform the people of their government, instructing and educating them, and impressing them with the necessity of each doing his part to sustain the stability of the government and to preserve an unshaken faith in it. To the lawyer of the past we are indebted almost entirely for this accomplishment.

Great as was the opportunity of the past, the service of the lawyer to his country, though less conspicuous and more humble, is equally imperative today. The needs of the hour are calling him to the support of his country, in defending her institutions, in inculcating faith among the people in these institutions, and in combating heresy and unsound notions of government that seek to undermine and destroy the work that the Fathers and those who succeeded them have transmitted to us.

The enemies of law and order are more active than ever before in sowing the poisons of lawlessness and unsound and experimental theories of government. These agencies have a small portion of the American press, and likewise their orators, scattering and propagating their vicious theories of government and casting unjustifiable reflections on men holding public office, with the intent to undermine the confidence of the people in them. These forces must be met and combated.

In a democracy where practically there is universal suffrage, it is important that every citizen be imbued with sound and wholesome notions of government. On whom is it more fitting to call in the performance of this public service than upon the members of the American Bar?

In almost a year that I have served as Attorney General I have not called upon a single lawyer to render service to the government, with or without pay, who has refused to do so. Their help to the Department of Justice has been marvelous and

most highly appreciated. No man can succeed as Attorney General of the United States without both the assistance and the confidence of the American lawyer. That is why I say, whenever I speak to a body of lawyers, that I consider every reputable lawyer in the United States a part of the Department of Justice. During the past year I have had hearings, conferences, contact, and dealings with probably one thousand lawyers, and I am happy to say, to their credit and for the widest publicity possible, that I have not yet found one of these lawyers untrustworthy, regardless of his interest in the cause or the nature of his employment.

If the state requires such high and important service of the legal profession, the lawyer who meets these requirements must be possessed of that intellectual and moral equipment that makes him efficient in performing these duties. In no calling are courage and fidelity more essential than in the legal profession. We admire brilliancy, but, by comparison, we discount brilliancy while we hold integrity at a premium. It is a matter of public concern to the state that the lawyer be absolutely trustworthy, both as to his moral character and his intellectual ability. Clients must trust him and are frequently at his mercy. He must be trustworthy in his relations to private litigants, but, far more, he must be trustworthy in his ability to answer the call of his country in performing his part in molding wholesome and sound public sentiment.

In these days when the exactions of business and commerce and industrial life are calling for so much of a lawyer's time and energy, there is great danger that he may forget the first requisite of his high and noble calling—that is, his duty to the state in inculcating sound notions and in educating the people and in forming correct public opinion, to the end that constitutional government may be preserved and its blessings disseminated among the people. *The lawyer's first public service, as a class, does not consist in holding office, but in educating the people to sound and wholesome notions of government.*

The American lawyer, the educator, the clergy, and the press everywhere are the agencies for the dissemination of sound principles of government and for educating the people to resist all efforts to undermine our system of government, and to foment revolution against its true, tried, and trustworthy constitution

and traditions. Because of its ability to reach the people, the greatest educational facility in this or any other country is a sound and truthful press. Constitutional government rests on the intelligence of the people. Since the foundation of our government, through the vicissitudes of storm and sunshine, to the present hour, a patriotic press has rendered most invaluable service to our country.

The educational service that I have dwelt upon is especially important not only because of the nature of republican government under universal suffrage, but because under the hospitable policy of our government, those born under other flags have come to our shores and participated in the freedom and liberty and resources of our country, and it is necessary that such people should be educated in our system of government and impressed with the benefits of that system. The education of all persons of this class is a prime necessity, and this call to public service is especially incumbent upon the lawyer.

Speaking to you intimately tonight as lawyers, I do not know what the history of the Department of Justice as now constituted will be, but I can assure you that its greatest ambition is to be helpful in installing a judiciary which will be a credit to America and American institutions and to the profession of which we are all proud to belong. As an evidence of sincerity in this regard I am proud to call attention to the standard established by the Chief Executive of the nation in the selection of that eminent statesman and sound jurist, ex-President Taft, as Chief Justice of the greatest court in the world.

Therefore, since the American Bar must furnish the judges for our judicial system, both state and national, and since from its ranks must come that vast concourse of young lawyers in the future who shall be the educative influence to mold public opinion in sound notions of government, it is of deep and grave concern to our republic that the ranks of the American Bar shall be recruited with young men who not only have the moral character that shall make them trustworthy in handling a client's cause, but shall have that moral and intellectual endowment that shall make them able to respond to every call of their country.

From the American Bar comes its judiciary. The wise selection of judges must, in great measure, depend upon the Bar.

Politics is and should be purely incidental to the selection of the judiciary. Character, reinforced by a trained intellect and learning, fortified by moral uprightness and courage, and sustained by a clear vision of the serious responsibility of the judicial office, is a requisite that every judge should possess who sits in judgment in our country. I believe that this government will stand as indestructible as our mighty hills and majestic mountains, and that there shall continue to flow from it benefits for our people as copious as the waters of our streams and rivers. I do not believe that any branch of our government shall fail, but to the judiciary, more than to anything else, must we look for the preservation and perpetuation of our form of government. A wise and courageous judiciary, resting on the confidence of the people, will save it from disintegration, revolution and destruction.

ADDRESS OF WILLIAM L. FRIERSON,

FORMER SOLICITOR GENERAL OF THE UNITED STATES.

Most intelligent people, of course, understand the difference between a profession and a trade. I am not sure that I do. Reference to the dictionaries has left me in some confusion.

Among other definitions, a profession is defined as "the business which one professes to understand and to follow for subsistence." But a trade is defined by the same dictionary as "the business which a person has learned and which he engages in for subsistence." The only distinction which seems to be implied is that one who follows a trade has really learned his business while to follow a profession one need only profess to understand it. Professional pride forces me to look elsewhere for the real distinction.

Of course, a profession is a useful avocation by which one lives. But so is commerce, agriculture or mechanical trade.

In accepted terminology one practices a profession and plies a trade. But who, under modern conditions and methods, can clearly explain the difference between practicing and plying.

We are accustomed to assume that there is a peculiar dignity which belongs to a profession but not to a trade. But the line which the laws of social cast anciently drew, in some countries, against those engaged in trade, does not exist in democratic

America. And, in this practical age, who, except perhaps, lawyers themselves, regard the most eminent lawyer as occupying a more dignified station or commanding a more general respect than the merchant prince or the king of finance?

Mental, as distinguished from physical, labor predominates in professional work. But so it does in managing and directing a mercantile or manufacturing business or in the work of a banker, a broker, or an accountant.

According to accepted standards, are not journalism, teaching, architecture, and engineering, professions? By what authority may we dispute, especially since the advent of income and excess profits taxes, the pretentions of accounting to that dignity? Is there any recognized reason for not classing a banker as a professional man except, perhaps, that, disdaining both profession and trade, he prefers to have it said that he is in finance?

Frankly confessing my inability to clearly define a profession, I shall not attempt to do so except to say that one unfailing distinction between a trade and a profession is that no one has yet thought it necessary or polite to suggest an eight-hour day for the professional man.

Without disputing the present right of any honorable calling to be classed as a profession, I fall back on the ancient designation of theology, medicine, and law as the three learned professions. These have, by long-continued usage, by immemorial custom, and by prescription, acquired the indisputable right to be called professions. If not now the only professions, they are, at least, the standard types. And I shall content myself with emphasizing some of the things which distinguish them from other avocations.

They are avocations in which one attends to the business of others rather than his own. They are concerned with the lives, the liberties, the legal rights, the domestic relations, and the souls of men and women. The dignity and honor and nobility which belong to them are due to the learning, knowledge and high character they require, but chiefly to the fact that they are devoted to the service of mankind in the things which touch most intimately human relations and happiness and which are of most vital importance to the world. The price of real eminence, in any

of them, is arduous and continued labor, unselfish consideration for the rights and interests of others, and unyielding integrity and faithfulness.

The minister of the gospel, obeying an imperative call to self-denying service, cherishing the good and the pure, seeking knowledge of things divine, striving to lead men and women in the ways of righteousness, making the redemption of mankind and the saving of souls his chief concern, holds the exalted office of God's Ambassador to earth. His mission, though the least attractive to unregenerate and unconsecrated man, is, in the eyes of all who believe in the immortality of the soul, the noblest of all.

The medical profession gives to the world the physician. He is man's earliest and last earthly acquaintance, the silent repository of the most delicate secrets of life and the home, the medium through whom God brings to the service of man all the curative and restorative agencies with which the works of creation abound. He is a warrior, thoughtless of his own life, leading the hosts of science against hostile diseases bent on the destruction of human life, a missionary preaching the gospel of redemption from habits which destroy the body. Wearing worthily and keeping spotless the immaculate vestments of a profession whose sacred mission is to protect and prolong life and relieve suffering, and whose service to man precedes the cradle and ends with the grave, he is, in the company of earth's most exalted, among his peers.

Even in the presence of those whose lives honor these two great professions, the lawyer, who measures up to the standards of his own profession, may walk with no sense of unworthiness and with a just pride in his calling. Like them, his business is to serve others. His capital is the confidence and respect which he is able to command. The instrument with which he works is knowledge. He is a trusted adviser and a composer of troubles in every walk of life. The seal of professional confidence makes safe in his keeping secrets which, if disclosed, would ruin reputations, wreck homes, destroy fortunes, and bring shame and humiliation. His duty exacts that measure of unselfishness which always puts the interest of his client above his own. His is the guiding hand and his the brain which direct large business

enterprises in the ways of legal safety. To adequately perform his function, he must have a wide knowledge, or at least know how to quickly inform himself, of the things which affect all lines of business and human endeavor. His advice is accepted where a mistake on his part may mean disaster. Upon him is the responsibility of asserting and protecting all civil rights and defending those whose lives and liberties are in jeopardy. And, for the faithful performance of duty and discharge of responsibility, he gives to no man any bond save his membership in the legal profession.

Neither the ministry nor the medical profession requires stricter integrity or greater faithfulness than the legal profession. And neither of them requires so wide a range of knowledge or so much sound judgment on so many questions.

But there is no one phase of the profession of the law which is peculiar to itself. This is a land ruled by law. Our people are not governed by the arbitrary will of any man or official. The law is above all and all are subject to its control. Our law-making bodies are controlled by restrictions imposed by the supreme law of written constitutions. No administrative officer, high or low, has any power except such as is conferred by constitution or statute. Legislative bodies enact laws for the government of the people. But we are governed by them only to the extent that the judicial power holds them consistent with the Constitution and as that power interprets them. We speak of the executive as the branch of the government which administers the law. But not even the President of the United States can inflict upon any individual the slightest punishment for a violation of the laws of the United States, except by authority derived from the judgment of a court. Every act of an administrative officer, which involves the rights of individuals, is subject to judicial review.

We are accustomed to speak of the three coordinate branches of the government. In the sense that each is supreme within the sphere assigned to it by the Constitution, they are coordinate. But when it is the judicial branch of the government which determines the limits of these spheres, when that branch is authorized to determine what the law, under the Constitution is,

regardless of the expressed legislative will, and when the laws can be executed by the executive only through the judgments of the courts and as interpreted by them, it is idle to say that all other governmental power is not in reality subordinate to the judicial power. The supreme power of our government is, therefore, vested in the Supreme Court of the United States. And this is as it should be, for in no other way, could we have truly a government of laws and not men.

Thus the very nature of our government gives to the legal profession a public character and a peculiar dignity and importance which belongs to no other profession, trade, or calling. The judges, of necessity, come from our ranks and we may, therefore, claim, with justice, that the ultimate power of our government is, at last, wielded by our profession. The distinction that comes from our relation to the government is not confined to those of our members who are elevated to the Bench. We are all sworn officers of the courts in which we practice. As advocates for our clients, we have a part in shaping the jurisprudence of the country. In our relations to the courts, we are ministers of justice. The importance of our part in the administration of justice is, I think, second only to the part of those who are charged with the responsibility of rendering judgment. There is, it seem to me, no higher privilege which comes to busy men than that which is the practicing lawyer's when he stands at his place at the Bar, and of right, unawed, and without fear or fawning, boldly insists upon the application of the principles of justice to great interests, or asserts human rights and demands their protection. As long as free government and the rule of law shall last, as long as justice is administered, the lawyer's station in life will be a proud and honorable one, and to be a worthy member of the legal profession will be a badge of distinction.

In such a profession there is no room for fellowship with the dishonest, the unfaithful, the untrustworthy, or the unpatriotic, and no useful place for those who are ignorant or inadequately prepared.

It is our duty to the public, to the government, and to our profession to guard jealously professional standards and ideals, and to see that they are kept high and clean.

ADDRESS OF GEORGE WHARTON PEPPER,

U. S. SENATOR FROM PENNSYLVANIA.

THE OBLIGATION OF THE LEGAL PROFESSION TO IMPROVE THE ADMINISTRATION OF JUSTICE.

One of the most agreeable elements in such a gathering as this is the obvious unity of purpose with which we have come together. Our professional experiences have been similar. Our common desire is to serve the republic. Our immediate problem is to draw wisely upon this body of experiences which we share and then to give abundant vitality to our conclusions. To justify our resolutions we must make them live and we must set them to work. We are not the kind of men who are content merely to pass resolutions and then consign them to whatever fate may be in store for the contents of those elaborate devices for concealment known as office files.

To make our resolutions live and work, we need not only a continuation committee, but we need also the kind of zeal of which we are all capable when once we realize that we are enlisting for a great public service. The saving formula is a good committee plus the enthusiasm of an awakened Bar.

Now it often happens in life that the reason for our lack of enthusiasm in some important cause has been our failure to take our own thoughts out and look at them. If we can once objectify our thinking, honesty may compel us to develop an enthusiasm for definite action or else suffer a shrinkage in our moral stature.

I suppose we have all at times thought of law as the body of rules for playing the game of life. As life is the one experience which we all share and as a happy life is our common aspiration, it follows that enormous importance attaches to the rules of the game. They must be ascertained and they must be enforced. The people who are engaged in ascertaining and enforcing the rules are called *lawyers*. The game of life can't proceed happily unless lawyers do their work and do it well.

From the very nature of the case every lawyer is concerned in the way that every other lawyer functions. The rules of the game of life must be ascertained and enforced to the satisfaction of the entire community or else the orderly progress of the game will be interrupted.

Moreover the profession is necessarily a close corporation and a self-perpetuating body. Nobody can practice law unless other lawyers are willing that he shall. Anybody may practice law whom other lawyers are willing to tolerate. Therefore the business of ascertaining and enforcing the rules of the game will be conducted just as well as the Bar want it to be conducted and no better. Clients may be vaguely dissatisfied. The public may be uneasy and suspicious. But clients and public are practically helpless in the presence of evils and abuses. All legal reforms necessarily originate with the Bar. We alone have the opportunity. Therefore ours is the responsibility. If the American Bar is a dynamic body we are not going to live longer in the presence of a responsibility undischarged.

The responsibility of wisely and rightly ascertaining and enforcing the rules of the game and fitting our successors to carry on our work is a public service of the first magnitude. I know of no other that outranks it. To recognize it distinctly as a public service is highly important, because by so doing we meet and dispose of the contention that standards of fitness should be relaxed to accommodate the infirmities of worthy but untrained young men. We are too intelligent to do this in the case of pilots or railway engineers or base-ball umpires or guides for the forest or for snow-capped mountains. The young man must qualify for public service. We do not sacrifice the public interest by good-naturedly giving him a license and turning him loose. This seems obvious; but we all have heard arguments in justification of inadequate legal training which, if applied to the navy, would have made limitation of armaments long ago unnecessary—because every ship by this time would be upon the rocks.

This Conference seems to me to be epoch-making, because we, as representative American lawyers, have for the first time definitely recognized the public responsibility of the profession and we are taking measures to discharge it. We have reached down into our minds—we have brought forth our thoughts—we have placed them before us in their startling simplicity—and the process has furnished us with our educational ideal—because an ideal is nothing but an objectified idea.

From this time onward the character and educational fitness of young lawyers is going to be a matter of vital concern to us—

because nobody will discharge this public duty if we fail. The happiness of American life—the welfare of American communities—is largely in our hands. We are awake to this fact and its significance is our inspiration.

We are going to give continuous and anxious thought to the best way in which to bring the law school student into personal contact with practicing lawyers; because we know that almost every young lawyer will practice after the manner of some older man. It is largely a problem of hero worship. We mean to make the sacrifices of time and effort necessary to subject the student to the dominating influence of those in whose hands the traditions of the profession are known to be safe.

But we are not going to be content with moral excellence unless it is supplemented by adequate educational equipment, because we know by experience that the wise may be kept unduly busy repairing the mistakes of the good. We mean to use all our influence to establish fixed and definite educational standards to which a man must conform if he wishes to qualify as a public servant. We are convinced that under existing conditions it is in the law school that the lawyer must be trained for service. We are willing to face and live down the criticism of those who tell us that we are planning an undemocratic Bar. We are not going to be turned from our purpose by those who hold that young men should be permitted to walk into law schools from the street and that a youth can acquire a legal training in a fit of absent-mindedness.

We know that before a young man begins to study law he ought to have made appreciable progress in acquiring those two capacities fundamental to his equipment—one, the capacity for abstract thought; the other, the capacity to use with exactness language as a vehicle of thought. The development of these two capacities, abstract thinking and language consciousness, should be the aim of every college curriculum worthy of the name. We err on the side of laxity when we content ourselves with insistence on two years of such work.

Then when the young man actually enters the forest of the law, we mean to insist that among his teachers there shall always be some who are living their whole life in the woods—guides whose whole time is spent in teaching wood-craft. No one mind

can embrace the whole of the common law—let alone our American amplifications of it. Therefore the American lawyers' work is largely explanatory. He must know the wood signs. He must develop that instinct of direction which makes the Indian at home in an unknown wilderness. We lawyers are daily relating ourselves and our clients to an economic and social environment which has changed almost over night. This makes our work the most fascinating work in the world: but to do it to public satisfaction makes a heavy demand on real ability; while to train those who are to carry on means effort on our part and patient endeavor on theirs.

But, gentlemen of the Bar, you are equal to the task. You might not be willing to make the effort for yourselves. You might even hesitate to do it for the sake of the student. But when America calls each one of us answers "*Adsum.*"

And America *is* calling today. She reminds us of the complications of our national life. She begs us to ascertain and enforce the rules of the game. She bids us contemplate also the hitherto impenetrable forest of international relationships and she challenges us to find the trail. And for our encouragement she tells us that we need not be daunted—because we are of the same goodly fellowship as those great American lawyers who at the Washington Conference found the world wandering aimlessly in a wilderness—trackless and seemingly impenetrable—and were yet able to give it direction and start it once more on its way back to civilization. My brethren! Let us show ourselves worthy colleagues of such great public servants as these!

ADDRESS OF WILLIAM DRAPER LEWIS,

OF PENNSYLVANIA.

A METHOD OF BRINGING LAW SCHOOL STUDENTS IN TOUCH WITH PRACTICING LAWYERS OF HIGH PROFESSIONAL IDEALS.

We often hear it said that young men coming to the Bar today are ignorant of, or indifferent to, correct standards of professional conduct. But I wonder if those who have not had frequent contact with young lawyers, other than those employed in the best law offices, know how serious conditions really are. All but the first six years of my professional life have been spent

as a law teacher in a large city. I therefore know the average young lawyer. I do not say that conditions are worse or better than they were 25 years ago. In my own city of Philadelphia perhaps they are slightly better; but that is only one city, and the facts may justify the very general feeling that moral conditions at the Bar are not improving. Neither do I know whether the average morals of those now being admitted to the Bar are better or worse than the morals of the older members of the Bar. The young man about to be admitted has not yet had an opportunity to promote needless litigation, swindle his clients or deceive the court. But I do know that present conditions are serious—more serious than most of you realize. Many law students today being admitted to the Bar lack that informed conscience and will to maintain high standards of conduct which are essential if they are ever to become as lawyers what they should be—promoters of justice.

There are three forces which tend to make better the moral character of the law student—hard legal study, a knowledge of legal ethics and personal contact with lawyers of high character.

The mere fact that one man knows more than another does not of necessity make him more sensitive to moral impulse. Mastery of the science of the law, however, comes only with hard study, and the student who acquires the habit of working out a legal difficulty until he solves it usually acquires at the same time moral integrity. The man who as a law student is unwilling to be dishonest with himself, refusing to pretend to know when he knows he does not know, as a lawyer is rarely dishonest in his dealings with court or client. Hard students who acquire a real mastery of the law are occasionally rascals, but not often. It is a frequent experience, and one of the satisfactions of the life of a teacher of law, to see the indifferent young man of the first year, as his interest in his studies increases, grow stronger morally as he grows stronger intellectually.

Again, full knowledge of the ethics of the profession is of course important. The moral impulse to do right is of little avail if the conscience lacks a knowledge of the right. Rules of correct professional conduct are or ought to be the result of practical experience of that conduct which tends to promote the administration of justice. Some of these rules of conduct come

to us instinctively, but others and their reasons have to be explained. Bar associations are, therefore, amply justified in insisting that law schools conduct formal courses in legal ethics, even though the experience of most law teachers shows that it is not less important, as occasion arises in the course of class-room instruction on matters of substantive law practice, to drive home an ethical rule by a practical illustration.

Formal instruction in correct professional conduct, however, as well as practical illustrations of the application of ethical rules, will often fall on barren soil, unless the law student is subjected to the third force to which I have referred—personal contact with lawyers of high professional ideals. For good or ill our moral character is affected—in most cases profoundly and permanently affected—by the impressions made on us as boys and young men by parents, teachers and friends. There is no educational substitute for the effect on law students of personal contact with lawyers who themselves jealously maintain the best traditions of the profession. All present systems of legal education fail to provide adequately for this contact.

The office system of legal education always had its serious defects as a method of teaching principles of law. But when the lawyer, even in the cities, usually had his office on the ground floor of his dwelling, when the non-existence of typewriter, stenographer and the title insurance company, made the student who could copy legal forms of some real use to his preceptor, the office system did supply this important element of personal contact between present members of the Bar and those who were seeking admission to the profession. The preceptor came into personal contact with the law student, and the law student not only knew his preceptor well, but in connection with his preceptor's business acquired an acquaintance with other members of the Bar.

Legal education in the past 40 years has made great advances. The graduates of our schools, even of those schools not ordinarily considered of particularly high grade, probably know more law, and have a clearer understanding of legal principles, than most of the students admitted to the Bar from 1825 to 1876. As stated, however, our present systems of legal education lack what the office system in its best days had—the element of personal

contact between the Bar and the law student. We are admitting each year hundreds of young men who cannot be said to know a single member of the Bar or the court to which they are admitted; indeed, in our larger cities there are many young members of the Bar who may practice for several years without having any real personal acquaintance with any lawyer whom a judge, mindful of good legal traditions, would think of appointing a member of a Bar admission committee. And yet, in spite of this fact, some lawyers wonder why so many young practitioners look upon the practice of law as a mere money making trade.

The important task of those who would do something to strengthen the moral character of law students is to restore to our system of legal education this element of personal contact between students and lawyers of high professional ideals, without losing what we have gained on the intellectual side by the establishment of the good law school. There is no reason why this should not be done, provided the Bar recognizes the importance of doing it, and also recognizes two facts; first, that it cannot be done by restoring in whole or in part the system of law student registration in a lawyer's office; and, second, that it cannot be done by throwing the responsibility for doing it entirely on the law schools.

The system by which a young man learned law in a law office has beed dead for decades. The illusion that it still exists is one of those things that impede legal educational progress. To sit in a lawyer's office and read a law book, or to act as his typewriter or stenographer, is not to "go through a law office" in the old sense of the word. The so-called office student of today learns his law not in the law office, but in the afternoon or evening law school. The law student has not left the law office, the law office has left the law student. In the modern law office there is a place for a typewriter, a bookkeeper and a clerk; there is a very real place for the law school graduate who is well-grounded in legal principles and knows how to find the law; but there is no place at all for the young man who wants to sit around and pick up the odds and ends of practice while he reads examination cram books or good or bad legal text-books. To attempt to secure some personal contact between the Bar and law students, by requiring that part of the student's time shall be spent in a

lawyer's office is worse than useless. In most cases personal contact between preceptor and student will not result, and in many of the few cases in which it will be secured the contact will not be morally stimulating to the student. Most law teachers will testify that the student on whom no moral impression can be made is the student who is having some "experience" in a law office, the reputation of which is not all that can be desired. Furthermore, the requirement of office registration may be so worded as to prevent, or make it difficult, for the student to obtain adequate legal training in a good law school.

On the other hand, as stated, we cannot throw the responsibility for introducing into our modern legal system the element of personal contact entirely on the faculties of our law schools. True, any teacher of law worthy of the position he holds can count among his students many whose personal friendship he will always retain. The number of students, however, which any law teacher can really know is limited; and what is more to the point, this limit falls far short of the number he can teach with efficiency. Thus a group of six or seven resident law teachers, that is, teachers, who are not in active practice and who devote their time to their work as teachers, can instruct with reasonable efficiency from 300 to 500 law students. On the other hand, they cannot really know that number, neither can any one of them really know one-sixth of that number. What actually takes place in our leading law schools today is that there is in each school a group of 20 to 60 students who have a more or less intimate personal acquaintance with one or more members of the faculty. The remainder, among whom are many of those who need the influence of personal acquaintance the most, do not have it. This is not the fault of our law teachers. You cannot expect law teachers to carry on the research and study necessary to teach their subjects effectively and also to have time to come into distinctly personal contact with a large number of their students.

And there is another reason why even the more modern law school cannot of itself fully supply this essential legal educational element of personal contact between law student and lawyer. Grant that the man who devotes himself to teaching law is as a rule a better teacher than the man who has to free his

mind from the cares of his practice before he enters the classroom; grant that today among law teachers will be found some of the best known and leading members of the legal profession; the fact remains that the profession, though a learned profession, is primarily a profession composed of practitioners, and the young man coming to the Bar of a particular court should know and be known by some at least of those who already form the Bar of that court. We must not forget that the old office system at its best not only brought the law student into contact with his preceptor, but gave to the leaders of the Bar some knowledge of the young men studying for admission in the various offices.

The problem of introducing into our legal educational system the element of personal contact between law students and members of the Bar of high professional ideals, while it cannot be solved by attempting to return in whole or in part to the old office system, or by throwing the responsibility for solving it on the schools, can I believe be solved by a united effort on the part of bar associations and law faculties. The definite suggestions I am about to submit may be defective, but I have a firm belief that only by cooperation between interested members of the Bar and law teachers can we surround the modern law student with those influences which will tend to create in him an effective desire to maintain the best traditions of our profession.

My suggestions are these:

1. State or local courts or state or local bar associations, as may best suit particular conditions, to appoint legal educational committees: In large centers of population, the number of the members of the committee to be about one-tenth or one-fifteenth the average number of registered law students in the territory for which the committee is appointed.

2. No person of whose moral character the committee is not reasonably assured to be allowed to register or continue to be registered as a law student, or to be given the right to take a final examination for admission to the Bar.

3. All applications for registration as a law student to be made to the committee, no applicant to be registered until a report has been made to the committee concerning him by a member of the committee especially appointed to become personally acquainted with him.

4. On registration each student to be assigned to a member of the committee; a substantially equal number of students being assigned to each member. The duty of the member to whom a student is assigned being, to keep in touch with him, become acquainted with him, obtain reports concerning him from the faculty of the law school he attends, and make annually a report concerning him to the committee.

5. The committee from time to time to arrange for receptions, dinners, or other joint meetings of the members of the committee, the registered law students and such members of the Bench and Bar as may be invited; such meetings as far as practicable to be arranged at Christmas or other law school vacation period, so that they may be attended by the students without interference with their studies.

6. The committee to take any other steps they may deem advisable to promote a real acquaintance with and a correct professional feeling among those studying for the admission to Bar.

If these suggestions have any value, it is not that in practice their operation will keep all undesirables from the Bar, but rather that their operation will tend to make those who are admitted aware of the tone and spirit which should guide a member of our profession in his relations with courts, with other members of the Bar, and with the public. They are based on the assumption that it is easily possible for a man in active practice to have at his home or at his club a group of 10 or 15 young men two or three times a year, to encourage them to see him for advice, and to attend one, or possibly two, meetings at which he will have the opportunity of introducing his students to other members of the committee and of meeting their students. The suggestions are also based on the assumption that the courts, or the presidents of the bar associations or other appointing powers in the different states, counties and judicial districts, can find the necessary number of members of the Bar sufficiently interested in those preparing for the profession to make the sacrifice of time involved.

Not long ago I was taking lunch with some members of the Chicago Bar. They were speaking of the lack of professional ideals among the younger members of the Bar, and were frankly pessimistic of any possibility of improvement in view of the

number seeking admission and their heterogeneous character, a considerable percentage having foreign-born parents.

Nevertheless, while recognizing difficulties, I am convinced that a great improvement is possible, even under conditions prevailing in such large and cosmopolitan centers of population as Chicago and New York. In Chicago in 1919 there were 244 persons admitted to the Bar by examination; in 1920, 317; in 1921, 380; or a total of 941 in three years. Doubtless many of those admitted did not intend to practice in Chicago; on the other hand, some who did intend to practice failed to pass the examination. We may fairly assume, therefore, that, as the period of law study is three years, the number admitted in that period is about the number of law students seriously pursuing the study of law in Chicago, with the expectation of practicing law in that city, though of course there are many law students attending Chicago law schools who intend to practice elsewhere. If there are in Chicago about a thousand law students who should be brought into personal contact with members of the Chicago Bar of good moral character, the committee here suggested would probably have to be a committee of 100 members. But it must be remembered that the membership of the Bar in Chicago is correspondingly large. It will not, I believe, be unreasonably difficult to secure 100 members of the Bar of that city sufficiently interested in young men to make the slight sacrifice of time which membership on the committee would involve.

The problem in New York City is substantially the same as that in Chicago. In greater New York 295 persons were admitted by examination in 1919, 384 in 1920 and 349 in 1921, or 1028 in the three-year period. No other locality presents serious difficulty. In the third city in population—Philadelphia—there were only 229 law students admitted by examination in the past three years. In that city a committee numbering 20 or 25 would be sufficient to give a thorough trial to the plan here proposed. Thus, even in our cities, the problem of bringing law students into contact with members of the profession of high ideals is not unsolvable provided the legal profession as organized in state or local bar associations realizes the importance of finding a solution.

The moral educational importance of personal contact between the best now at the Bar and the law student can hardly be exaggerated. Do you wish to maintain the law as a profession? Then realize: You cannot maintain the practice of the law as a profession unless you have among the members of the Bar ideals of service and of courtesy. You cannot maintain these ideals unless those lawyers who now have them are willing to take of their time to see that the young men who seek admission to the profession are thrown under influences which will tend to produce them. The responsibility for the morals of law students should not be thrown entirely on the law schools. As a law teacher, I tell those of you who are on the Bench or in active practice that in our work of teaching law we need your friendly counsel and advice; but that in creating about our law students the proper moral professional atmosphere we need more than that—we need your intelligent cooperation and help. The suggestions here made may be faulty. If so, modify them. But let us start here in this Conference to get together to do something to strengthen the moral character of the future members of our profession.

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(Names of Alternates are printed in *italics;* delegates and alternates in attendance have been indicated by an asterisk.)

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Delaware County Bar Association: William I. Schaffer, J. C. Taylor, *Howard E. Hannum.*

Erie County Bar Association: Charles H. English, Albert O. Chapin.

Fayette County Bar Association: *L. B. Brownfield, *Charles A. Tait.

Indiana County Bar Association: D. B. Taylor, John A. Scott.

Lackawanna County Bar Association: *Cornelius Comegys, *Wm. J. Fitzgerald, *S. B. Price, *C. B. Little, *Joseph O'Brien.*

Lancaster County Bar Association: *Charles I. Landis, *John A. Nauman, **Bernard J. Myers.*

Lehigh County Bar Association: *Fred B. Gernerd, *James L. Schaadt, *R. L. Stuart, Orrin E. Boyle.*

Monroe County Bar Association: *J. H. Shull, *Chester H. Rhodes, *W. B. Eilenberger, Harry Huffman.*

Montgomery County Bar Association: William Righter Fisher.

Northampton County Bar Association: William S. Kirkpatrick, William H. Kirkpatrick.

Northumberland County Bar Association: *Harry S. Knight, Voris Auten.

Philadelphia, Law Association of: *Hampton L. Carson, *George Wharton Pepper, *John Hampton Barnes, *Charles L. McKeehan.*

Philadelphia Lawyers' Club: R. Stuart Smith, *Robert P. Shick, William Clarke Mason.

Washington County Bar Association: Alexander M. Templeton.

Westmoreland County Law Association: *Paul H. Gaither, *Adam M. Wyant.

Wilkesbarre Law and Library Association: S. J. Strauss, J. B. Woodward.

University of Pennsylvania: *William E. Mikell.

RHODE ISLAND, State Bar Association: *Frank L. Hinckley, *Alex. L. Churchill, *James C. Collins.

SOUTH CAROLINA, State Bar Association: *W. D. Melton, *J. F. Carter, *J. Nelson Frierson, *R. Beverley Herbert.*

SOUTH DAKOTA, State Bar Association: *A. K. Gardner, John B. Hanten, *George N. Williamson.

Brown County Bar Association: *George N. Williamson.

TENNESSEE, State Bar Association: *John Bell Keeble, Elmore Holmes, *C. Raleigh Harrison.

Chattanooga Bar Association: *Wm. L. Frierson.

Knoxville Bar Association: *Malcolm M. McDermott.

Knox County Bar Association: *J. Harry Price, *Malcolm M. McDermott.

TENNESSEE, Murfreesboro Bar Association: John E. Richardson, Jesse V. Sparks, *E. L. Whittaker, J. D. Richardson, Jr.*

University of Tennessee: *Malcolm M. McDermott.

TEXAS, State Bar Association: Nelson Phillips, F. A. Williams, *R. E. L. Saner, H. L. Mosely, *W. A. Morrison, A. G. Greenwood, T. P. Steger.*

Dallas Bar Association: *R. E. L. Saner.

UTAH, State Bar Association: *E. M. Allison, Jr., *W. D. Riter, *George Sutherland.

VERMONT, State Bar Association: *Edwin W. Lawrence, Warren R. Austin, William R. McFeeters, *George B. Young.

VIRGINIA, State Bar Association: *Robert M. Hughes, *William M. Lile, Joseph R. Long, *Walter S. McNeil.

Norfolk and Portsmouth Bar Association: *Thomas W. Shelton, *Robert M. Hughes.

Richmond, Bar Association of the City of: J. Randolph Tucker, *C. M. Chichester.

Washington and Lee University: W. H. Moreland, *James B. Noell.

WASHINGTON, State Bar Association: Stephen F. Chadwick, Roy C. Fox, Charles E. Shepard.

Lincoln County Bar Association: Samuel P. Weaver, Louis A. Dyer.

State College: Henry M. Skidmore.

WEST VIRGINIA, State Bar Association: George E. Price, *J. W. Vandervort, *J. Warren Madden, *George S. Wallace, John J. Coniff, C. W. Campbell, *Randolph Bias, *George Poffenbarger, *Ira E. Robinson.*

Cabell County Bar Association: *D. W. Brown, *W. C. W. Renshaw, *W. K. Cowden, Harry S. Irons.*

Charleston Bar Association: *David C. Howard, *Wm. B. Matthews, *Uriah Barnes.*

Mercer County Bar Association: *H. C. Ellett, Russell S. Ritz, *D. M. Easley, A. W. Reynolds, Jr.*

Mingo Bar Association: *Randolph Bias, *Harry Scherr, *Wade Bronson, J. B. Straton.*

Mineral County Bar Association: *Emory Tyler, *Tyler Morrison, *C. N. Finnell, *R. A. Welch.*

Monongalia County Bar Association: J. G. Lazzelle, *E. M. Everly, *C. William Cramer, *Robert E. Guy, *Terence D. Stewart.*

Ohio County Bar Association: Nelson C. Hubbard, *John C. Palmer, Jr.

Taylor County Bar Association: *Ira E. Robinson.

West Virginia University Law School: *Thomas P. Hardman.

WISCONSIN, STATE BAR ASSOCIATION: Louis Quarles, *W. A. Hayes, *Frank R. Bentley, *Harry S. Richards*, **John B. Sanborn*, *John E. McConnell.*

DANE COUNTY BAR ASSOCIATION: Joseph E. Davies, *H. S. Richards.

DODGE COUNTY BAR ASSOCIATION: C. A. Christiansen, Eugene A. Clifford, *Martin L. Lueck, William H. Woodard.*

DOUGLAS COUNTY BAR ASSOCIATION: Irvine L. Lenroot, Harold G. Pickering.

MILWAUKEE BAR ASSOCIATION: *Max. Schoetz, *Frank T. Boesel.

UNIVERSITY OF WISCONSIN: Harry S. Richards.

WASHINGTON COUNTY BAR ASSOCIATION: *Carl B. Rix.

WYOMING, STATE BAR ASSOCIATION: C. P. Arnold, W. E. Mullen, *H. B. Henderson, Jr.

The following members of the American Bar Association were present: C. A. Severance, President; Frederick E. Wadhams, Treasurer; W. Thomas Kemp, Secretary; Edgar B. Tolman, representing American Bar Association Journal; E. A. Armstrong, New Jersey; Nila F. Allen, District of Columbia; Robert Crain, District of Columbia; Clarence W. DeKnight, District of Columbia; John Warnook Echols, Virginia; Hampson Gary, District of Columbia; James T. Lloyd, District of Columbia; James W. S. Peters, District of Columbia.